United States Court of Appeals
for the Second Circuit

APPENDIX

NO. 77-4081

United States Court of Appeals

FOR THE SECOND CIRCUIT

B

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

and

LOCAL 107, INTERNATIONAL LADIES' GARMENT WORKERS' UNION, AFL-CIO,
Intervenor,

v.

SOLBORO KNITTING MILLS, INC.,
Respondent.

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF
THE NATIONAL LABOR RELATIONS BOARD

VOLUME III

APPENDIX

Pages 684 - 1094

UNITED STATES COURT OF APPEALS
FILED
AUG 19 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

ELLIOTT MOORE,
Deputy Associate General Counsel,
National Labor Relations Board.
Washington, D.C. 20570.

PAGINATION AS IN ORIGINAL

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Q Were employees like yourself who were with the company a longer period of time than the newer employees asked to do things at several different jobs as compared to just one job that they had been doing?

A When do you mean? When I first went in or at the later date?

Q Starting from and after October 4th once the layoffs began?

A Oh, yes, yes, some of the girls, but they were doing this kind of work even before.

Some girls were running two machines even from before.

Q During the period of time you worked for the company were there occasions or times when you had conversations with Josephine O'Connell about work that you were supposed to do, work that you were scheduled to do on a daily basis?

A What do you mean by that?

Q How would you get your work assignment?

What relationship did Josephine O'Connell have to that?

A Well, for the most part my work was laid out for me by Mrs. Murray and then if there was any change and she was busy, Josephone would come and tell me what

Mrs. Murzay wanted done.

Q Was Josephine O'Connell your forelady?

A No, not to my knowledge.

I take it by "forelady," you mean one that gives out work, takes work and things like that?

Q Yes.

A No, she didn't do that.

Q Did Josephine O'Connell work like everybody else in theshop at different jobs?

A Yes.

Q During the course of your employment, did you come to be familiar with the work that was done by an employee named Mary White?

A Yes.

She sdwed the garment and I had to take the garment from her to mark it.

She put the bindong on the garment.

Q Now, based upon your experience in the garment industry and the length of employment that you were with the company in 1974, could you give us a judgment about the quality of work done by Marh White?

MR. WEINRICH: Objectbn.

MR. KUSHNER: Objection.

JUDGE HERMAN: Sustained.

Q Were the garments that you received from Mary Whit for you to work on professional garments?

MR. WEINRICH: Objection.

JUDGE HERMAN: I will sustain that. I don't think this witness has given any testimony so far that would qualify her to answer that question.

MR. SCHER: I will accept your problem with the word.

Q Were the garments that were given to you to work on after having been worked on by Mary White defective in any way?

A Yes, some of them.

Q Can you describe that to us as best you can remember?

A Well, we have a machine where we mark, it is measured for marking garments, the button holes and buttons.

Some of them were too short, they were pulled up. I guess like this, you would say, you know, gathered more or less and some were a little too long that I couldn't mark them, I had to take them out.

Q Was this something that happened rarely or regularly?

A It happened quite regularly.

Q To your knowledge was she spoken to about this by Mrs. Harkavy?

MR. WEINRICH: Objection.

JUDGE HERMAN: To your knowledge.

I will overrule the objection.

Did you hear her or see her talking to Mrs. Harkavy about this?

THE WITNESS: Did I see Mary White talk to Mrs. Harkavy?

JUDGE HERMAN: About that.

THE WITNESS: Well, I told Mrs. Harkavy about it and she went over to her.

I didn't hear the conversation that went on.

Q Would you tell Mrs. Harkavy about the defective work each time it happened?

A Yes, because I couldn't mark it.

We wouldn't be able to ship out the goods.

Q Were there timeswhen there were large numbers of those goods that had to be redone or reworked on because of those defects?

A By and large, what do you mean, dozens or?

A Well, tell me, rather than me telling you.

A Well, I've gotten as much as four dozen during the day.

Q From Mary White?

A Yes.

Q On those occasions, to your knowledge, would Mrs. Harkavy work them?

A Yes, she did.

CSA Reporting

I would find them ready the next morning for me.

MR. WEINRICH: I object.

I move to strike that.

I don't think the answer is responsive.

JUDGE WEINRICH: Well, I think the answer is not altogether responsive.

To the extent that it did respond, it indicates no personal knowledge so the motion is denied.

Q To your knowledge, when that defective work had to be corrected would Mrs. Harkavy do the correcting?

A Yes.

Q Now, do you recall the last day that Mary White worked, on October 7, 1974?

A Yes, I think so.

Q And was there any defective work that was doneby her, to your knowledge, which you then saw in the shop afterwards?

A Well, I had to take it and work on it so I saw what was right and what was wrong there.

Q This time could you describe for us quantitatively the defective work that you saw?

A I don't remember that. I really don't.

Q After Mary White left the employ of the company on October 7th do you recall what happened to that defective work?

A Some of it Mrs. Murray fixed and some is still there to be fixed, as far as I know.

I haven't checked with anybody but I know the day I left it was still there.

So that's as much as I could tell you.

Q Now, you were laid off from work on October 21, 1974, is that correct?

A That's right.

Q And you testified that work was dwindling as early as September.

Was this a situation where the work available to yo became less and less as October 21st approached?

A Yes.

Q Did you have any communication or discussion with anyone about your layoff frmm employment?

A No.

Q Were you advised by Mrs. Harkavy of your layoff?

A Well, yes. I happened to call her that day. Iwas away for a week. I lost a brother. I took time out to come to the city and when I went back, seeing that things were slow the last day I worked, I called and asked her if she wanted me to come in and she said there was no work at the present time and that she would get in touch with me.

Q Did you disagree with Mrs. Harkavy about her statement to you that there was no work to be performed?

A No. I just asked for permission to go for unemployment.

Q Did you agree with Mrs. Harkavy that there was?

A Well, I know this was --

M.R WEINRICH: Objection.

MR. KUSHNER: Objection, leading.

JUDGE HERMAN: The witness is unable to testify to what conditions were as of that moment.

She has given testimony already as to what happened as long as she was there and she said she was off for that whole week, so the objection is sustained.

MR. SCHER: I have no further questions.

JUDGE HERMAN: You may examine, Mr. Weinrich.

CROSS-EXAMINATION

BY MR. WEINRICH:

Q Where was your work station in the plant, Mrs. Delfino?

A I picked it up myself.

Q I don't think you understood my question.

You testified you marked buttons, you trimmed, and you did various other little things.

A Right.

Q Did you move around the plant to do all of these things or did you do it at a particular place in the plant?

I ask you to think a minuee as the operating machine -- you testified you observed Mary White's work, the type of work.

A I worked on her work. I had to pick up her work to mark it.

Q So you didn't see her work on it?

A I took it from where she was sitting and then she was working on the machine.

Q Now, she was sitting and working on the machine.

When you went over there you had occasion to observe how many m achines were lined up next to hers.

What I want to know is how many machines there were in a row.

A There was her binding machine. There was a buttonhole machine.

There was a button machine. I don't know what th call the other machine. I think there were four.

There was a space and there was a few more on the other side.

Q So you couldn't see her work, her actually physically perform thd job, you would only look at her work after she was finished?

A Well, just a minute.

Sometimes the binding she put on had to be cut a cut that so I took the work directly from her to cut i

Q Did anybody else operate thatmachine during the time you worked there?

A Before Mary Whiee came?

Q Yes.

A Yes.

Q What about while Mary White was working the machine?

A Mrs. Murray worked on the machine sometimes.

Q Now, when you picked up the work did you always pick it up directly from Mary White or did you sometimes take it from a bin after she had finished with it.

A Took it from a bin but the bin was for her there because it was right in back of her machine.

Q And if somebody else had been working on this machine at the time would the goods have also been in the same bin or in a different bin?

A No, the workthat Mrs. Murray did for me I got from her personally.

Q She would --

A Bring it over to me.

Q Not --

A Not the piece, the whole bundle.

Q So you knew when you went to that bin that that was Mary White's work?

A As long as she worked on that machine, yes.

Q Although you didn't see her actually physically

Q You did the buttons?

A I did the buttons, yes.

I buttoned the sweater.

Q And she was the only one to put the binding on except for Mrs. Harkavy?

A That's right.

Q Before Mary White started did the other girl ever do defective work, the girl that worked on the Mauser before Mary White?

A Once in awhile.

Q When you trimmed die you see any other defective work?

A What do you mean?

Q Well, you testified that Mary White did defectiv work.

You also testified that you buttoned sweaters.

A That's right.

Q You trimmed the threads off the sweaters.

A Yes.

Q When you buttoned and trimmed did you see any defective work?

A Once in awhile.

Q Who did that come from, do you know?

A Well, most of the times it was on the binding where there was something from the knitting or someth it was a misstitch.

Q A misstitch in the knitting?

That wouldn't hve been Mary White's fault?

A No, that was not her fault.

Q What about when the sleeves were merrowed, did you ever take a look at merrowed sleeves?

A Yes.

Q Were thye ever defective?

A Yes, once in awhile.

Q What about merrowed cuffs and collars, were they ever defective?

A Cuffs and collars?

We just had collars.

Q Did you ever have occasion to inspect the collars?

A No, I didn't work on them.

Q One of your various other little jobs wasn't as a quality control inspetor, was it?

A By that you mean if it is a good sweater?

Q Yes.

A That's right.

Q That was one of your jobs?

A Yes.

I checked when I buttoned the sweater to see if it was all perfect.

Q So you checked every sweater that you buttoned?

A But I was not the one that buttoned the sweaters.

Q Did you put a tag in it and it said, "Inspected by No. 19"?

A No.

Q No tags at all?

A No.

Q How many defective sweaters did you find?

A In what?

Q In a given day as the quality control inspector when you buttoned sweaters, how many defective sweaters would you find?

A In regard to the whole sweater?

Q Orany part thereof.

A Well, four, five dozen.

Q And those wouldn't be packed up, they wouldn't be sent out because the company didn't want to send out defective merchandise?

A That's right.

Q Now would all of those sweaters be defective on the part that Mary White had buttoned -- had put --

A Most of them were.

Q But you didn't catch that when you were puttig buttons mo?

A Those are the ones I took out before I buttoned.

Q Why are you buttoning them and inspecting them when they were defective?

A I'm sorry, I misunderstood the question. I thought you were talking about all told, with everything combined.

Q I was talking about when you were buttoning sweaters.

I take it that buttoning is one of the last processes because you are closing it up?

A That's right.

Q How many defective sweaters did you find at that time?

A In a day?

Q Yes.

A Let me think back now.

I will say a dozen, the most.

Q Now, you had already taken out various other defective sweaters that you had found?

A Right.

Q Both for the binding and possibly the merrowing of the seams and the collars, but you didn't do collars?

A No.

Q Who inspected the collars on the sweaters?

A Whoever worked on them.

Q You don't know?

A No, I don't.

Q Do you know if the company keeps any record of disregarded production because it is defective?

A I don't know.

Q Did you make any list of that?

A Do I make a list of it? No.

Q You just report to Mrs. Harkavy?

A I take them out and bring them to Mrs. Murray.

Q Now, it is your testimony throughout the entire period of her employment, Mary White was putting out defective work?

A Yes.

Q Do you know how long Mary White worked there?

A No, I have no idea what time.

Q But whatever period of time it was she put out defective work from time to time?

A Yes.

Q How many dozens of pieces in a given day?

A I told you, four.

Q Four?

A Four, sometimes more, ,maybe less, I'm not sure of the exact amount.

Q Well, this is important and I want you to think about it, because you are giving testimony concerning somebody's work.

You testified you are the inspector, that she did defective work.

Let's try and be sure how much defective work she did, if yoy can.

If you can't, then you will have to say you are not sure, but think of the period in which she was eployed.

Think of the last day.

You said you had a truly good recollection of the last day.

Do you remember October 7th? The last day Mary White worked?

A Yes, I remember that day.

Q You remember October 6th?

JUDGE HERMAN: That was Sunday.

THE WITNESS: It was a weekend.

MR. WEINRICH: Right.

Q What about October 8th, doyou remember that day?

A Tuesday? Yes.

I worked that day, but very slowly.

Q Now, did Mary White work on October 8th?

A No.

Q October 7th was her last day.

What type of sweater was she working on that day, if you remember?

A I don't know the names of the material but it was a sweater that had binding. It had to be put on and after the buttons they put on fur collars and cuffs.

Q She also put the bindong on. That is the only thing she did on the Mauser?

A That's the only thing they do on the Mauser.

Q How many defective pieces did she turn out that day?

A I think about two dozen.

Q So that wasn't her worst day.

She had turned out four dozen defective piefes on other days?

A That's right.

Q Do you know how long she worked on the machine that day, on the Mauser machine?

A No.

Q At what time of the day did you discover these two dozen defective pieces?

A Throughout the day as I was working on them.

Q Throughout the day?

A Because when other things came through that I had to do I didn't mark it -- mark the buttons, I waited until I did the other work.

Q Do you recall if you found out in the afternoon or morning?

A No.

Q You don't remember?

A No.

Q How many pieces did Mary White turn out that day?

A I don't know, I don't check the numbers.

Q Only the number of defective work?

A Well, I have to pile them up and bring them over to my boss so she will take care of them.

Q Did two dozen represent half the amount of work she did in a day?

A I have no idea.

Q You have no idea?

A No.

Q You said on October 7th things were very, very slow.

As a matter of fact in testifying about the months of September and October of 1974 and being asked if there was any change in that period in the work flow you said that things slowed down in the end of September. You had to wait for work to come through.

There was a dwindling supply?

A Yes.

C.S.A Reporting

Q Was the plant at a standstill?

A I wouldn't say that but it was slow.

Q How many machine operators were working at the end of September?

A I don't really know.

Q Well, do you know who the first employee laid off was?

A No.

Q But things were very slow at the end of September?

A That's right.

Q You say the knitting machines slowed down?

A Yes.

Q You didn't hear it as much?

A That's right.

Q You don't know how many knitting machines there were inthe plant?

Were you able to see them?

A No.

Q Were you able to see theknitting machines from where you were?

A Sometimes, depending on where I worked.

Q But you testified you didn't know how many knitting machines there were.

A I still don't know.

Q Because you worked at a different end of the plant?

A That's right.

Q How far away were you from the knitting machines?

A I don't know. Let me see --

JUDGE HERMAN: Was it the whole length of this room?

THE WITNESS: See, the knitting machines were on this side of the building, and when I work at the table, I work at the back, at this side, so I don't really know.

JUDGE HERMAN: In terms of distance, would you say the plant was about the length of this room or not?

THE WITNESS: Possibly. I'm not sure.

Q When you say you heard the machines slow down, could you tell us what you mean by hearing them slow down?

A Well, when the knitting machines were going you could hear the noises of them.

And then you heard very little of it.

Q Do you mean there were certain times when the machine wasn't running?

A No, I don't mean it stopped altogether. I mean, I will say about three or four, if the four machines were running as an example you could hear a loud noise go ng around and around as themachines went.

If there was only one or two which -- you could hear very little.

Q You heard less noise?

A That's right.

Q Do you remember if people were talking louder in the plant at that time when you heard less noise?

A People always speak above the machine.

Q Now, you testified that Josephine O'Connell came back and told you that the company lost a big order and after that things slowed down.

Can you place the date of that conversation with Josephine O'Connell?

A It was in the last week of September. The axact date I don't remember.

Q The last week?

Things were very slow in the first week in October weren't they?

A That's right.

Q Because you took off to go toyour brother or to the city?

AC Came into the city.

Q Was that the first time during the course of your employment since May that things were slow enough to permit you to leave.

A I asked for the time off because I had a very sick brother and I didn't have time before.

Well, we were busy. I didn't feel it was right being a new employee to take time off.

Q Wereyou paid for the day you missed?

A No.

Q Do you recall what day of te week it was?

A A Friday.

Q And you remember that being in the beginning of October when things were very slow?

A If I remember the date correctly it was around the 12th of October.

It was a Friday --

MR. WINRICH: Can we stipulate that the only Friday during the month of October that the witness took off was either the 19th or the 26th?

JUDGE HERMAN: 19th and 26th are Saturdays.

MR. WEINRICH: 18th and 25th.

THE WITNESS: I wasn't working on the 25th.

MR. WEINRICH: Can we stipulate the Friday the witness is talking about is the 18th?

THE WITNESS: Could be.

MR. WEINRICH: I'm not askingyou, madam.

MR. SCHER: I can't stipulate that was the day.

All I can say is that the record shows that she missed work on Friday, October 18th.

JUDGE HERMAN: That is the only Friday the payroll shows she was out.

MR. SCHER: That's correct.

Q You testified that after things slowed down in late September or early October, "I asked if I could have a day off."

A That's right.

Q And that was on a Friday?

A Yes.

Q And the records show that the only Friday you were off was October 18th.

Would it be more correct to say that things changed and slowed down in the middle of October rather than in September or early October?

MR. SCHER: Objection.

JUDGE HERMAN: Overruled.

A Well, I had asked before that but being that the holidays were coming up I wanted to come in at that time but being they were only one-day holidays I waited until the following week to come so that I could come into the city and spend a few days.

Q Which holidays are we talking about?

A The Jewish holiday.

I don't know exactly.

Q If I tell you the Jewish holidays were on September 17th and 18th and September 26th --

AWell, I wanted to come in but I didn't come in. I asked and then she said we were going to have only one day off so I asked -- I said I will wait until it slows downa little more.

I dn't know the exact date.

Q It slowed downa little more by the time you took off?

A That's right.

Q Were there still people workingat that time though?

A A few.

Q And you were still working?

A That day I took off, yes.

Q You were told that you had just lost a big order, the company, Mrs. Murray had lost a big order and you were told that by Josephine O'Connell.

Did she relay messages to you from Mrs. Harkavy?

A Sometimes she did.

Q She did?

A When Mrs. Harkavy was too busy to come back and tell us, Josephine did.

Q Had you been slow before, had work been slow before Mrs. O'Connell told you about the cancellation in orders?

A We had that order to work on. We were working on this order that had to go.

Q Now, do you remember when that was completed to when you went to visit your brother?

A That was the last week of September.
What date I have no idea.

Q So things continued to slow down?

A That's right.

Q When you went to visit your brother were things at a grinding halt?
Were things going on in the plant?

A It was very, very slow.

Q Very, very slow.
There was other work for you though, wasn't there?

A Well, I don't know.
I went to work on the Monday and I had to leave.
I got a call that my brother passed away.

Q You didn't work after that Monday?

A That's right.

Q Which would have been the 21st of October?

A The 21st was last day I worked.

Q Did any other employee besides Josephine O'Connell relay messages from Mrs. Harkavy to you?

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Did anybody come back and say Mrs. Harkavy said do this and do that?

A No.

Q Josephine was the only one?

A That's right.

Q You testified earlier that there came a point in time that you knew that work was slow because you had to work and go piece by piece and on one or two occasions things were so slow that you had nothing to do and you didn't like to stand around and pick up a broom and swept the floor?

A That's right.

Q Which point in time did that occur when things were that slow?

A What do you mean? The date or what?

Q Was that in the end of September that things were that slow?

A The beginning of October.

Q The beginning of October?

A That's right.

Q Thingswere that slow.

And you continued working at that pace until the 21st of October?

A That's right.

Q Now, work continued after you found out that

A That's right.

Q And was anybody else working that day?

A Yes, some of the girls, not too many.

Q Do you remember who?

A Let me see. It was Anna, Jo, Millie Cacoperdo, and Mildred Eve, the girl that was packing in the front.

Q That's all?

A That's all I can remember.

Q Was the presser still working?

A He wasn't there that day that I was there, that last day that I was there.

Q What were those people doing while you were sweeping the floor?

A I don't know.

I wasn't paying any attention to what they were doi

Q But you seem to have a very good knowledge of many things that went on in the shop, Mrs. Delfino.

At some point you used to pay attention to what other people were doing, didn't you?

MR. WEINRICH: Objection.

JUDGE HERMAN: Sustained.

MR. SCHER: I have no further questions, your Honor.

JUDGE HERMAN: Do you have anything, Mr. Kushner?

MR. KUSHNER: Yes.

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BY MR. KUSHNER:

Q Mrs. Delfino, you testified that you started on either May 12th or May 13th.

A Around this time. I'm not sure of the exact date.

Q Do you recall whether Donna Moravec was there at the time you started or if she came after you?

A She was there when I went in.

Q Now, you say that among the work that you did you did buttoning, and trimming?

A That's right.

Q Isn't it a fact that Donna Moravec did the same king of work occasionally?

A Well, occasionally when she didn't have any of her work to separate.

Q She did buttoning and trimming?

A Occasionally, not very often.

Q Let me ask you, in the period between the end of September when you testified that work had slowed down and the time that you left on October 21st, did you have occasion to observe the work being done by Ana Nemec or Carmen Gonzalez or any of the other machine operators who were still in the shop?

A Ana was sewing furs if I remember correctly.

Q Then did you did have occasion to observe the work that they were doing?

A I passed by when I went to the ladies' room. I could see what was going on then.

Q What kind of work was she doing at that time?

A Ana?

Ana was sewing collars and cuffs first.

Q Did you notice or did you have occasion to observe whether her work was slow?

A I didn't pay much attention to it.

I just went about my business and came back.

Q So you wouldn't be able to testify as to whether her work was slow or whether she had a small amount of work or not?

A I don't know.

Q How about Carmen Gonzales, would you beable to testify with respect to the amount of work that she was doing during this period?

A I didn't see what Carmen was doing.

Ididn't pass by Carmen.

MR. KUSHNER: I have no further questions.

JUDGE HERMAN: Any redirect?

REDIRECT EXAMINATION

BY MR.SCHER:

Q Mrs. Delfino, on cross-examination the general counsel asked you what it was that you were doing in the last few days of your employment.

Now, aside from the sweeping that you indicated that you did, was it your job marking?

A Marking, yes.

Q Now, was there anyone else in the ship who could do marking?

A Well, while I was there I was the only one that did it.

I don't know if they did it before I came.

Q But as far as you knew during your employment you were the only marker?

A I was the marker.

MR. SCHER: No further questions.

JUDGE HERMAN: Anything further?

MR. WEINRICH: Nothing.

JUDGE HERMAN: You are excused, Mrs. Delfino.

MR. SCHER: May we go off the record a moment?

JUDGE HERMAN: Off the record.

(Discussion off the record.)

JUDGE HERMAN: On the record.

We will be in recess until 1:30.

(Luncheon recess taken at 12:20 p.m.)

CSA Reporting

AFTERNOON SESSION

1:30 p.m.

JUDGE HERMAN: On the record.

MR. SCHER: Respondent calls as its second witness, Josephine O'Connell.

Whereupon,

JOSEPHINE O'CONNELL,

having been first duly sworn, was examined and testified as follows:

JUDGE HERMAN: Be seated.

State your name and address.

THE WITNESS: Josephine O'Connell, 18 Bartley Lane, West Sayville, Long Island.

DIRECT EXAMINATION

BY MR. SCHER:

Q Mrs. O'Connell, can you advise us your status here today?

What accounts for your presence here today?

JUDGE HERMAN: Are you asking if she is here pursu to subpoena?

MR. SCHER: Yes.

Q Are you here pursuant to subpoena issued by the counsel for the general counsel?

A Yes, I --

CSA Reporting

JUDGE HERMAN: Well, that's not altogether fair in a sense that general counsel was ready to release her and she has been kept under subpoena until today because you were going to call her as a witness.

MR. SCHER: Well, for the record I would like to state that I had no plans to call her as a witness for the respondent.

I am only doing so todaybecause when general counsel reversed himself yesterday and indicated he would not call her as a witness as he had advised me the previous day it became clear that there are portions of the record in general counsel's case which relate to alleged statements made by Mrs. O'Connell which I feel have to be clarified as part of the record.

There is therefore no alternative but for me to call her as a witness.

JUDGE HERMAN: I'm not questioning the right to call her or the status that you are calling her.

All I want to do is clarify for the record that the statement that she is here today pursuant to subpoena served by general counsel did not --

MR. SCHER: Technical.

JUDGE HERMAN: That's right, did not clarify.

MR. WEINRICH: Excuse me, Mr. Scher, you are not directing any inference at my failure to call this witness, I don't believe, are you?

If I may address you.

MR. SCHER: I wasn't but if you give me an idea and it occurs to me I might want to brief it.

MR. WEINRICH: Well, you do that.

JUDGE HERMAN: Proceed, Mr. Scher.

BY MR. SCHER:

Q Mrs. O'Connell, can you tell us what your current employment situation is with respect to Solboro Knitting Company?

A I'm on temporary lay-off.

Q Do you recall the date you were laid off?

A I believe it was the last week of November. I don't remember the exact date.

Q Now, you worked for the company in all of 1974?

A Yes.

Q When did you begin your employment with them?

A 1971, first week of October.

Q In 1974 what category of employment were you in?

A Well, I was made floor help, doing steamingand any other thing, packing, giving out work.

Q At the time of your lay-off, do you recall what your rate of pay was?

CSA Reporting

A $2.40 an hour.

Q And from time to time during your period of employment in 1974 did you work overtime?

A Yes.

Q Were you paid?

A I was paid time and a half for any hour over the forty-hour week.

Q What function did you serve in the company in, as you called it, giving out work?

How would this comeabout on a daily basis?

A Well, Mrs. Murray would each morning, give me a list of what work had to be done, who was to receive it, and I would proceed from there to give out the work to which every person she said to give it to.

Q And did Mrs. Murray keep a log?

A Not a written log.

I kept all the books as to what work was in boxes to be given out and she in turn would tell me which orders to give out and to who.

Q And when you would go to the place each day what wouldyou say to them as far as work that they were to do?

A Well, I just said, "Mrs.Murray said to work on this lot and here's your work."

Or if it was some other work, then I would say, "Mrs. Murray said you are to separate," or "Mrs. Murray said you are to trim this," dependong on who I was saying it to.

Q At any time in your employ with the company in 1974, did you hold the title of floor lady?

A No, I did not.

Q Do you know the duties and responsibilities of a forelady in this kind of a company?

A Well, you know, you have to be familiar with all operations of the company.

Q Did you ever fundtion as a forelady with this company?

A No, I did not.

Q Incidentally, are there times now and then when Mrs. Harkavy is not present at the plant?

A There have been occasions, yes.'

Q How often is that?

A Oh, I'd say maybe three and four times in the four years that I have worked there.

Q Who was in charge on those occasions?

A Well, she usually leaves me a work list of what has to be given out and if I have any problems or need any discussion I go to Mr. Murray who is usually in.

Q Mr. Murray is there when Mrs. Murray is not there?

A That's right, there is always one of them present at the plant at all times.

Q Do employees ask you questions about things other than the work that you are giving them?

A No.

Q Do they ask you questions about personnel matters?

A No.

Q Do you have any dealings with employees regarding their wages?

A No, I do not.

Q Do you have any dealings with the employees regarding any time off that they would need or any benefits that they have?

A No.

Q Do -- who do the employees deal with as far as that is concerned?

A As far as I know it is Mrs. Murray.

Q Have you ever fired any worker?

A No, I have not.

Q Have you ever hired anyone?

A No.

Q Have you ever transferred an employee?

A No.

Q Do you move employees from one machine to another?

A No, unless Mrs. Murray specifies that certain employees is supposed to go to another job.

Q And then you would tell the employees?

A Then I would say, Mrs. Murray said when you finish this work go to this machine or that machine."

Q Have you had the experience of telling Mrs. Harkavy that you want any particular employee hired or fired or transferred or moved from one machine to another and she did it?

A No.

Q In the period of time that you have been employed by the company have there been lay-offs?

A Yes.

Q How often do these lay-offs occur?

A They at least occur once or twice a year.

Q Do they occur with any particular thing that is happening at the company?

A Well, usually it is either cancellation of orders or just plain no work and usually it gets slow around October, November, sometimes as early as September.

Q In this particular company and in this industry is that more or less known as the season?

A Right.

Q Do the lay-offs follow when the season is over?

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A Right.

Q At some later time?

A Right.

Q Are there sometimes partial lay-offs, that is, where people --

A Yes, sometimes the orders are not as large and we may have just very little work.

So maybe only a few people working at that time instead of the full force.

Q Does it also happen that the people's hours are reduced?

A Sometimes, yes.

Q What would that be like, one hour, two hours?

A Well, if you finished a particular job and there is no other work accumulated for that day then you may go home an hour or two early or you may go home before lunch or after.

Q Has that ever happened there?

A Yes.

Q Did it ever happen to you?

A Yes.

Q In 1974 has it ever happened to you?

A Yes, several times I went home early.

Q What are some of the factors that are involved in the determination of lay-offs, either a full lay off or a partial lay-off or the reduction of hours of employees?

MR. WEINRICH: Objection, your Honor, there has been no foundation to establish that.

JUDGE HERMAN: Sustained.

Q Are you familiar with the variations in production that occur from time to time at the company?

A Yes.

Q And the times of the year when there are more goods being produced by the knitter and other times when there are less goods being produced by the knitter?

A Yes.

Q Does that have an impact upon the flow of production in the shop?

A Yes, it does..

Q Do you have knowledge as to the things that bring about a decrease in production?

A Yes.

Q Could you tell us what those things are?

A Well, usually it is a decrease in knitting.

If there is no knitting done we have no outside work.

All our work is knitted at our plant and if there is no knittigg then there is no work.

Q What is it that determines whether there is knitting or not?

A If the machines stop and we have no backlog then there is a quicker layoff.

If the machines stop and there is backlog of knitted goods then the layoff does not come as quickly.

Q Are there some times when you have had knowledge that there has been a backlog and other times when there has not been?

A Yes.

Q During the period that you have been employed by the company?

A Yes.

Q Can you recall the layoff that took place in 1973, '73?

A Yes.

Q The year before, the year --

A This past year, yes.

Q Where this situation which is the subject of this hearing came about?

Could you recall approximately when the seasonal layoff took place that year?

A I believe it was either the first or second week of November.

Q And do you recall what was happening with the knitting machines at that time or prior to that?

A I believe they ended their work about October. Say the first week of October.

A And was there any relationship at that time between backlog and the ultimate layoff?

A Well, we had a great backlog last year -- we had a greater backlog than we did, in '73, than we did in '74.

Q What was the backlog in '74?

A There was not very much knitted up and wehad also lost orders.

Q What?

A Orders were cancelled on us.

Q Incidentally, to digress for a moment, there is a policy of the compahy on lay-offs.

A Yes.

Q What is that policy?

A Well, usually the ones with most seniority that do the most operations are left for the last to be laid off.

1 The newer girls usually go first.

Q What?

A Newer girls, the girls that start more recently.

Q Is there any policy with regard to notifying employe of layoffs?

A Not really. Usually told maybe a day but usually it's the day that you finish up the work and Mrs. Murray says, "I'm sorry, there is no work right now, keep in touch."

Q On occasions where you have been laid off, is that what she has said to you?

A Yes, it has been.

Q Have you heard her say that to other people?

A Yes, I have.

Q In all of the four years you have been employed?

A Right.

Q Are you able when you are working at the plant as an employee to have an inkling of a layoff that is coming?

A Yes.

Q How does that happen?

A Well, the first inkling is your knitting machine stops.

Q I would like to ask you for -- if you will focus on the fall of'74.

A Right.

Q And tell us to your knowledge whether there were any knitters stopped in the fall and if so, when do you recall that happening.

A Well, the machines were more or less closed down as of September, the end of September.

Q When you say closed down, you mean all of them?

A There was one running but it was strictly a sample machine for Mrs. Murray to make designs and do samples on.

Q How much earlier than the end of September did the other knitters close down?

A In September you mean?

Q Yes.

A It was around the middle of September, I believe.

Q There's been testimony this morning that you can actually hear the less --

A You can hear them and where I'm stationed you can see them.

Q Was there a time in the month of September when something happendd at the company with relation to an order that you have knowledge of?

A Yes.

Q Tell us approximately when that was and what it was that happened?

A It was the last week of September.

I was over helping Mildred Eve pack a rush order. Mrs. Murray came up and showed me a telegram from Sweater Bee cancelling over 200 dozen sweaters.

Q - What kind of sweaters were they?

A Glenn Can -- it's a quality of yarn.

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MR. WEINRICH: Objection.

A It was a birch tweed sweater with fur collars and cuffs.

Q And Glen Can simply refers to the quality?

A The type of yarn.

Q Did you ever see a copy of that telegram, incidentally?

A Yes, I did.

Mrs. Murray came and showed me the copy of the telegram, showed me the actual telegram.

Q Did that have an immediate impact on production in the shop?

A Well, of course.

Then there was no rush in getting it out so, what was left was done at convenience.

MR. SCHER: I would like to request that the reporter mark this document as Respondent's Exhibit 4 for identification.

JUDGE HERMAN: Off the record.

MR. WEINRICH: I have no objection to that.

MR. KUSHNER: I may have other objections but not the fact that it is a copy.

Q I show you a photostatic copy of a telegram which has been marked as Respondent's Exhibit No. 4 for identification, and ask you if this is a copy of the telegram that Mrs. Harkavy showed to you that day?

A Yes, it is.

Q And--

MR. SCHER: I would like to offer this document into evidence.

JUDGE HERMAN: Any objection?

MR. WEINRICH: It is received.

MR. SCHER: For the reoord the telegram bears the date September 27, 1974.

MR. WEINRICH: It is a mailogram, right? Not a telegram.

What a mailogram is speaks for itself.

MR. SCHER: Yes, that is correct.

I am not familiar with whether or not there is a code on here that indicates, yes, there is a code indicating that on this document the estimated date of transmission, ETC was 4:24 -- no, withdraw that.

JUDGE HERMAN: That would sound like the time of day.

MR. WEINRICH: Eastern daylight time.

MR. SCHER: Eastern daylight time.

Well, I'm unable to read the code but counsel for general counsel is correct, it bears the legend Western Union Mailogram as compared to Telegram.

But in any event it contains the date of September 27,1974.

Q Now, when you were advised by Mrs. Harkavy of the receipt of that telegram and the cancellation of that order you testified that you knew what the immediate impact was on production.

A Yes.

Q Did you then advise any employees in the shop?

A Yes, I did have an occasion to go to the back of the shop to bring -- to pick up some fur collars that I was in the process of putting on and I did mention it to Millie and to Julia and I also said to to Joyce Brown because I was taking the cuffs and collars from her and I says, "Now, you don't have to rush because we lost the order."

Q As compared to the effect of the knitters stopping, what is the effect of the cancellation of an order on production in the shop?

A Well, it means it is not shipped out and just stored in the factory.

Q Incidentally, in cases where there is a layoff at the shop what do the remaining employees do as far as production work is concerned, where people have been let go from doing some stage or part of the production?

A Well, they usually do a lot of bouncing around toward the end.

You may work say half a day on sleeves and another half day of setting them in or some other operation.

A few hours at one operation and a few hours at another, but you do bounce around more often than you would normally.

Q Has that been something that you have observed at the company each year that you have worked there?

A Yes, It has.

Q Did you sign a card for the union?

A Yes.

Q Doyou recall the circumstances under which you signed the card?

A Yes.

Gabe came to my house.

Q Mr. Sciacca?

A Yes.

Q Did you have a conversation with him?

A Yes.

Q What did he say to you and what did you say to him?

A Well, I believe he thought I was expecting him bu

I was not.

I was expecting someone else and when I opened the coor I just saw a gentleman and I thought it was the other gentleman but I did ask him into the house.

He showed me some leaflets and medical benefits from the union, and at that time I said I wasn't interested in joining.

He asked me why not and I said my feelings were that the shop is not big enough for a union nor does it make enough production for a union.

He said that all the other girls had signed and for their benefit I should sign.

And I still said I really wasn't too interested and he said, help out the other fellow workers.

And my husbad was present and he said, go ahead and if you don't want it, sign it for the other girls, so I did sign it.

Q Did you have occasion to say anything at that time about your views of the union?

A In what respect?

I did tell him I felt the union wasn't for the shop.

JUDGE HERMAN: Didyou say anything else in that connection?

THEWITNESS: I just felt that my viewpoint was that the boss would not think the shop was big enough for a union and I did make the comment that I thought Mrs. Murray probably would close down the shop because it was too small for a union.

But that was strictly my viewpoit.

Q Did Mr. Sciacca say anythingabout that?

A He said don't worry about that, we'll take care of it.

Q Did Mrs. Harkavy ever tell you she would close down the shop if the union got in?

A No.

Q Over the period of time you were employed by the company had you ever had any discussions with Mrs. Harkavy or she with you in which you came to know her viewsabout the size of the shop and the relationship of that to the union?

A Not in so many words.

Shedid make a few pdnts on unions, how she felt, that some unions in some places were good but she felt that Solboro, being seasonal and did not have that many employees, and she felt the place was more family-placed, that everybody knew each other and she would like to keep it on a family basis.

Q Was this the basis for your statement to Mr. Sciacca?

A Yes.

CSA Reporting

Q At or about the time you signed the card for the union there were some other employees also working for the company who were commonly referred to as older employees, is that cornect?

A Yes.

Q Do you have any knowledge as to what their impression was about a union shop at Solboro?

MR. WEINRICH: Objection.

JUDGE HERMAN: The question, do you have any knowledge, that would mean --

MR. SCHER: From conversations with them.

A Yes.

Q Would you tell us what that impression was?

A Well, one was Mille Cacoperdo.

She felt that she was too old at this time togo into the union, she would get no benefits out of it.

And the other one was Donna. She was just confused. She just didn't know what her standings were at that time with the union.

Q Did a time come after you had signed when Donna Moravec came to you to discuss the question of the union?

A Yes.

I had gone back the day after I signed the card and she said she had an authorization card that Gave had given her thenight before, but she didn't know what to do.

So I just said to her, "Donna, sign the card.'

Q Was there any other employee working in the company that also had a discussion with you before they signed the card?

A Yes, Millie.

Q Do you recall what she said to you?

A Well, she did say she felt she was too old, and she said only benefits she would get out of it would be the medical benefits and she really didn't know what to do.

So I said, well, sign the card and at least you will get medical benefits.

Q Did you everhave a discussion with an employee named Mildred Eve concerning the card?

A Right.

This was after I had signed and before Gave had come into the shop that Friday I believe.

He came in and she said that Gabe had been to her house but that she refused to let him in and she was between two minds and that Grace had said to her that if she didn't sign she would have to pay $100 fee to join the union after.

MR. WEINRICH: Objection.

Move to strike.

CSA Reporting

JUDGE HERMAN: Motion granted.

Q You are familiar, are you not, with Respondent's Exhibit 1 which is a letter dated October 5, 1974 addressed to Mr. Sciacca and signed by yourself and three other employees of Solboro?

A Yes, I am.

Q Do you need to refresh your memory of it?

Now, can you tell us the circumstances surrounding the doing up of that letter?

A Well, I and my husband were discussing the union and --

Q Was this after you signed the card?

A Yes.

Q And you were at home?

A Yes.

I was tellinghim that I felt that Gave had misrepresented himself when he told me that everyone else had signed the card,that I had gone to work and during the week I found out I was not the last one to sign the card.

And my husband said, well, if that's the way things look and youfeel youdid wrong, then withdraw your signature from the union and we composed the letter and I called Donna and Mille and Ana Nemic and told them what I was doing, that I felt I didn't want the union, that it was no benefit to me, and if they felt thesame if they would like to sign the letter.

And they each said they would.

And then I did proceed to go around to each of the girls and have them sign it.

Q When you went to Donna Moravec for her to sign it, can you describe the signing by her of the letter?

A I went to her front door which is a screened-in door and she came to the door, and I said, Donna, I have a letter that I was speaking to you about. Would you please read it and sign it.

And she took it over to a small table that was on the porch and she read it. Shedid sign it and then she turned around and said this was unnecessary, that us older girls should have gotten together and discussed the situation before we signed cards.

And I said I agree with you, and that was it, and I left and went to Ana Nemic's house.

Q Is there any reason why there are only four signatures on that letter?

MR. WEINRICH: Objection.

The letter speaks for itself.

JUDGE HERMAN: Overruled.

A The reason, I only went to the girls who were the

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longest employed there.

Q You did not try to obtain the signatures of the more newly-hired employees?

A I did not.

Q Who typed this letter?

A I did.

Q At yourhome?

A Yes.

Q Did you ever discuss the fact that you and your husbnd were doing this letter up with Mr. or Mrs. Harkavy?

A No.

Q Didyou ever tell either one of them that you were going to do it?

A No, I did not.

Q Did you bring this letter -- well, did you than mail the letter to the union?

A Yes, I sent it special delivery.

Q What did you do afterwards regading this letter? Did you make any copies?

A Yes, I made a copy.

Q Whatdid you do with it?

A On the following Monday I went in and I handed it toMrs. Murray and I said, this is a copy of the letter that I sent withdrawing ouf signatures from the union.

Q Mrs. O'Connell, you have been present at this hearing each day of the hearing?

A Yes.

Q And during the course of this proceeding have you heard employees of Solboro called as witnesses by the general counsel to testify as to certain conversations they had with you and things you said to them during September, October 1974?

A Yes, I have.

Q Did you ever mae a statement to Donna Moravec about her being taken care of if she signed that letter?

A I did not.

Q Did you evdr have a conversation with Donna in which that phrase, "being taken care of" or anything like it came up?

A Not with Donna. With Mille Cacoperdo I did.

Q Did you make the statement to Millie that Mrs. Harkavy will take care of you when work improves?

A I did not give that particular statement to Millie, no.

Q Did you say something like it?

A Yes.

We were driving home from work. Millie was upset about the union coming in.

She didnot know what wouldhappen and we were discussing thing were getting slow.

And she said what will happen to us old timers afterwards.

And I said, usually the old timers come back first to work and like always when the season starts the old timers are always takencare of.

Mr. Murray always takes care of us in the way of a raise.

It's been the policy to get a raise in the beginning of the season even if it is not much.

Q Did you say that to her?

A Yes.

Q Did you ride back and forth to work with Carmela or Millie Cacoperdo?

A Yes.

She has no way of driving back and forth and I do drive her every day.

Q All during this period were you discussing with her the events that were takingplace at the shop?

A Naturally.

It was a pretty popular topic.

Q Didyou ever make a statement to her that the company was not taking any more orders until everything is straightened out with the union?

A Not that exact statement, no.

Q Did you say something like it?

A I said there are no orders coming in, that's why we were getting slow and chances are there would be no orders until the start of the new season.

Q Did thesubject of the union come up at that point?

A I don't believe so.

Q Did you say anything concerning -- with the phrase "straightening out with the union" coming up at that time?

A Well, I said eventually I guess things will be straightened out with the union and it won't matter which way, when the orders comein we'll come back to work.

Q Did you ever say anything to Carmela, Millie Cacoperdo, to the effect that thecompany would close up if the union gets in?

A Well, we were discussing the union another day driving home and she was wondering what the viewpoint was.

My viewpoint was -- I said listen, as far asI', concerned, I think Mrs. Murray would rather close, and that was the extent of the conversation.

CSA Reporting

And Millie did say something, I hope she doesn't close because I have no other place to go to to work.

Q Did you tell her that Mrs. Murray said that she would close the shop?

A No, I did not.

Q Did you tell her that Mrs. Murray told you that she would close the shop?

A No, it was strictly my viewpoint.

Nothing else.

Q Did you ever make the statement to any employee that if they were for it then they would be canned?

A No, I never used that expression.

Q Did you say something to that effect?

A No.

Q Did you ever hear that phrase used at Solboro?

A Yes, I did.

Q Did you or didn't you?

A Yes, I did hear it used.

Q Who used it?

A It was on the morning that Grade and Joyce had -- and Donna and Mary White and I think Gave was there and another woman that I didn't know, they were handing out leaflets in the driveway.

Q That was after the union had come in and spoken to the Harkavys?

CSA Reporting

A I believe so.

Q The following week?

A Yes.

And I myselfm Mildred Eve and Millie Cacoperdo were walking in the driveway and Grace went to hand me a leaflet and I said I didn't want itand she said, you are stupid, you are going to get canned from both ends.

Q Was there anybody else standing -- was Donna Moravec anywhere in the vicinity?

A Yes, she was standinghwith her and I beliefe Marge was standing with Grace that time, too.

Q Marge Passannante?

A I guess so.

I don't know what her last name is.

Q Was there any time in 1974 when you shifted the place that you ear lunch at the company?

A Well, it is usually a practice that it is very warm in there in the summertime and usually during the summer months I go out and eat with the knitter by the front door.

Q Was that something that only lasted for a short period of time in the cold weather?

A Yes.

And then we closed the doors and then I move back

CSA Reporting

Q Was it just the knitter that you ate with or sometimes someone else?

A No, several times my husband did come down and have lunch with us.

Q Is this place whereyou ate anywhere near the machines in the shop?

A No.

Q Your husband is not nor has ever been employed by Solboro?

A He has not.

Q Is there any rule in the company about pdrsons who are not working at the company moving in and about the premises?

A Yes.

It is cmpany policy anyone not employed has no authorization to be anywhere near the machinery.

Q Was the lunch table in back in the area where the machinery is?

A Well, there are sewing machines, Merrow machines, all kinds of machines there.

Q Do you recall the time when Joyce Brown was laid off from work at Solboro?

A Yes, I believe so.

Q With regerence to the time that layoffs began on October 4th, just reasonably in relation to that, can you remember approximately when that took place?

A When Joyce was laid off?

No, I really can't tell you what date.

Q All right.

Regardless of the date, at the time she was laid off, can you recall what Joyce Brown was working on?

A Yes.

She was either Merrowing the fur cuffs or putting buttons and buttonholes on.

Q On the same sweaters?

A Yes.

And then she would also tack the fur cuffs onto the sleeves.

Q Do you know what happened to the work that Joyce Brown was working on after she was laid off?

A I believe that work was more or less finished.

There was not too much of a lot left over.

Q Was there any other work from that same order?

A There was some bundles left from that order.

Q What happened to those bundles?

A I don't remember.

I think all the fur cuffs were put on and I still had fur collars to put on,

The fur collars were put on in a different process.

They were not tacked.

Q Did you hear the testimony of Joyce Brown in which she sid that when she came back to get her paycheck after she was laid off she saw her work on a table through a window?

A Yes.

Q Can you explain that?

A There was fur on the table and -- on the cutting table, alongside the cutting table, not actually on the table, but that was an overcut.

We had cut too many pieces off the rolles and they were just being stored there.

Q They were not work that was in production?

A It was not work that was in production.

Q During the time that Mary White worked for the company and which coresponds to a period that you were employed at the company, did you become familiar with her work?

A More or less.

Q And did you ever have the occasion to talk about that work with her or with Mrs. Harkavy or with other employees?

A Well, I did have occasion with Mrs. Murray and also with Julia.

There was a problem about some of the garments either being too short or too long concerned with the borders and Mrs. Harkavy had asked me to please start cutting off the borders so new borders can be sewed on.

Q Do you recall whether there was any work that she had done on the last day that she worked which was defective?

A Yes.

There was quite a bit.

Q What happened to that?

A That work is still packed the same way as she had done it, in a box.

Q It's been left --

A It's at the shop.

MR. SCHER: I have no further questions.

CROSS-EXAMINATION

BY MR. WEINRICH:

Q Mrs. O'Connell, you testified during the year 1974 you did thefollowing categories of work:

Floorhelp, steaming, tacking, and giving out work.

Were you in training for anything while employed by the company in 1974?

A Mrs. Murray was training me to be a forelady.

Q For how long have you been trained to be a forelady?

JUDGE HERMAN: Wait a minute.

I understood the witness to say forelady.

Q Forelady?

JUDGE HERMAN: ?That's what you are asking about?

Q That's what I'm askingand I keep on slipping, your Honor.

A Well, I would say really for the past year because she did have some complication with some of thereal old timers about training me.

Q What did you say this training consisted of?

A Learning all the operatioas, the operations of each machine.

Q Do you presently operate any machine on a regular basis?

A No.

The only machine that I opeate which is the pin ticket whih puts sizes on garments.

Q Have you ever been a machine operator?

A No.

Q For how long has Mrs. Harkavy been giving you a list of work to be done from which you proceed to give out the work?

A I think I resumed those duties when a girl had left for another job and I believe that was sometime in the beginning of 1973.

Q Sometime in 1973 prior to October of 1973?

A Yes.

Q Is it your testimony that every time you gave out a piece of work that Mrs. Murray tells you to give it out?

you go up to the employee involved and say, Mrs. Murray told me to give you this?

A Yes, that's usually the situation.

Q Well, I want to know if it is always the circumstanc

A In the first place I don't give out a piece of work.

It is usually bundles of work so I may say --

Q Let me rephrase the question then:

When you give you a bundle of work do you always say to the employee, Mrs. Murray told me to give you this?

A When I bring the first bundle to that lot I say Mrs. Murray gave me this order to work on.

I do not with each bundle say, Mrs. Murray gave me this bundle for you.

Q Were you instructed to do that by anyone?

A Not really, no.

Q You say you kept an order book?

A Yes.

Q Is that the official order book of the company?

A Yes.

Q Mrs. Murray tellyou to keep that order book?

A It was being kept when I first started the job.

I was shown how to keep it and I have kept it ever since.

Q Is it your testimony you not only give people work to work on you physically carry the bundles to them?

Don't you also from time to time relay instructions from Mrs. Murray to an employee?

A Yes.

Q When you relay those intructios is it your testimony you say, for instance, Mrs. Murray said you should trim now?

A Yes.

Q Neyer just say to them, Donna, do -- why don't you trim now?

A No.

I have had experience in the past that if I did not say Mrs. Murray they would not do the operation.

They would go and ask for Mrs. Murray's confirmation so it is easier for me to say Mrs. Murray told me to tell you.

Q You testified on direct that since you began your employment in October of 1971 that Mrs. Harkavy's been out of the shop for three or four times?

A That's right.

Q And you were akked who was in charge and do you recall testifying that she leaves me a work list and if there are any problems I go to Mr. Murray?

A Right.

Q So you don't do anything that is different when Mrs. Murray is out of the shop, is that correct?

A No.

Q Do you recall if you have ever made a statement saying "If the boss is out for a day or for part of a day then I will have supervision or direction of the shop?

A Yes, I did give that in my direct statement to your counselor that came to my home.

Q Didyou give that to an agent of the NLRB?

A Yes.

Q You gave that in a sworn statement.

A Yes.

Q Do you recall if you ever said I will hand out work to those workers needing work, answeing workers' questions if I can and seeing that all workers have work?

A Yes.

Q Did you say that in the same statement?

A Yes.

Q Is that statement true?

A Well, I do give out work.

I do get directions to give out the work.

The supervision was not a proper phrase of the word.

Q Was direction of the shop the correct word to be used there?

A Well, I meant that I was giving directions on what to do in the shop.

Q And did you also say in that statement that "I first assumed those duties about six or eight months after I began work"?

A Not assumed the duties.

I meant that's when Mrs. Murray had intended training me and that's when she started to train me, butthen too much of a conflict with theold timers who have been employed there some 20 years, then they sort of slacked off in my training until a more convenient time.

Q Were those duties that you described before, supervision and direction of the shop in Mrs. Murray's absence part of your training?

A That's right.

Q Do you recall testigying on direct in response to questions by Mr.Scher or a questionby Mr. Scher, "Do employees ask you questions about things -- I will withdraw that.

Now, you testified that you keep the order book?

A Right.

Q Therefore you were very familiar with theorders?

A Yes.

Q You said Mrs. Harkavy toldyou about a telegram?

A Yes.

Q And you testified that they lost an order for 200 dozen sweaters from Sweater Bee?

A It was the last 200 dozen we were working on.

Q You are sure it wasn't 130 dozen?

A No. I'm pretty sure it was a -- close to 200 dozen.

A How close?

A Oh, maybe 25 dozen off.

Q Who many dozens of garments wasthe order for SweaterBee?

A It was close to 800 dozen garments.

Q Cold it have been close to 1,000 dozen garments?

A No.

Q Weren't there two styles of garments that were being manufactured for Sweater Bee, a style1995 and a style 1996?

A Yes.

Q You are familiar with the orders and I'm going to show yo u the telegram because the telegram specifies style numbers.

A Right.

Q When you said the total order was for 800 dozen, did that include both styles?

A I would presume it did.

Q You kept the order books so yourknowledge of those orders should be very good?

A Well, to the best of my knowledge it did include both styles.

Q Do you recall if the total orderfor style 1996 was a thousand dozen?

A I don't recall.

I'm getting orders every day. I go to the machine to take -- Some orders 25 dozen, some 50, but the total would -- what the total is I would have to check the book.

Q So your recollection of the number of orders you are willing to admit is not exact?

A Not without looking at the book.

Q Bu you don't think you could be off in excess of 800 dozen/

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A I don'tbelieve so.

Q Maybe 25 dozen per -- either way?

A It could be that way.

Q Was that the last order being worked on at that time, no more orders after the last 200 dozen for Sweater Bee?

A There were sample orders, not sample, butsample work.

Q But no new production after the Sewater Bee production stopped that was it for the season?

A Yes.

Q What about Span Craft, did you ever hear about that?

A Spun Craft.

We were in approximately at the same time. Between Sweater Bee and Spun Craft.

Q So there was still other production work after the Sweater Bee order was called -- was cancelled?

A We were finishing up on Spun Craft.

Q How much work for Spun Craft was still in production at the time that theorder from Sweater Bee was cancelled?

A I couldn't say.

Q How big was the Spun Craft order to begin with?

A Not very large.

Q Well, wa it larger than the 200 dozen that were cancelled?

A No, I don't remember if it was larger or less.

Q Do you recall if it was 600 dozen?

A I don't recall.

Q Now, why was the Sweater Bee ordrr cancelled?

A We were late in delivering.

Q Couldn't keep up with the work?

A There was a lot of old timers that had left us and Mrs. Murray had to train new girls and naturally they did not work as fast as the old timers.

Q So up until the cancellation of the Sweater Bee order on or about September 27th, 1974, therewas more work in the shop than the people could finish, is that correct?

A No.

MR. SCHER: Calls for a conclusion.

I will object.

JUDGE HERMAN: I will sustain the objection on that ground.

Q Up until the time you received theSweater Bee telegram there was enough work for everybody to keep busy in the shop?

A Yes, I would say so.

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Q Had all the Sweater Bee goods been knitted at that point?

A I can't remember if they were all knitted or if we stopped knitting.

Q You don't remember whether the knitting machines were running at the end of September?

A No.

They had already stopped running.

Q You just said you didn't remember.

A You asked me if all goods of Sweater Bee was knitted.

A I don't know if that was all the goods there. There were still goods to be knitted.

Q Were all the goods for Spun Craft knitted at that time?

A I believe they were.

Q Are you sure?

A No, I'm not sure.

Q Were there any other orders in production as of theend of September of 1974?

A No.

We only worked onSWeater Bee and Spun Craft.

Q When did you finish Spun Craft work?

A I couldn't say.

Q Do you know when the last delivery ofSpun Craft was made?

A No.

Q z If I suggest toyou October 29th, would this refresh your recollection?

A That has no meaning whatever to me.

Q You don't handle the delivery books, just the order book?

A Just.

Q Penrose, do you deal with anybody named Penrose?

A Yes.

Q Were they in production after the 4th of October?

A Not that I believe so.

Q Do you know when the last shipment to Penrose was shipped?

A No.

Q Well if there were only the Spun Craft work after the Sweater Bee work what did thepeople work on between September 27th and when you were laid off?

A It was the finish off of Spun Craft and then there was some sample work to be done.

Q What did they do withthe Sweater Bee work that was in production?

A It was packed and still in the factory.

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Q Just the way it was, not bits and pieces?

A No, completed and packed in the factory.

Q Those were the fur collars and everything people were putting on?

A Yes.

Q You said you went home early several times in 1974 becaise of lack of work.

Was that before or after October 4th?

A Some before and some after.

Q Isn't it a fact that once the knitting stops there always willbe a layoff?

A Yes.

Q But the time is dependent upon what amount of backlog there is?

A Backlog, knitted goods.

Q Would you say that the knitting machines are usually shut down for a month or two or more prior to a layoff?

A Someti es.

All depends on the backlog.

Q And themachines have been shut down this year since the end of September?

A I believe so.

Q The latter part of September?

JUDGE HERMAN: All the machines?

THEWITNESS: Except for the one that was doing samp

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work.

Q Where was the backlog of knitted goods kept in the shop?

A In back of the shop.

Q Did anybody keep a book on inventory of backlog of knitted goods?

A Only the book that the knitter keeps on what goods he knits.

Q How large a backlog was in October of 1974?

A I don't know.

Q Wereyou laid off in 1973?

A Yes.

Q When did that layoff begin?

A I believe the first week of November.

Q Could it have been November 11, 1973?

A Could have been.

Q And when did you return to work after that layff?

A I believe sometime towards the latter part of December.

Q When were you laid off thisyear?

A Latter part of November.

Q Are you now back at work?

A No.

Q Have you been back since November?

A No.

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Q Is the usual practice of the company to lay off machine operators for less time than the floor girls?

A Yes.

Q Well, when you say usual and when I ask the question, are they laid off-- when we say laid off, less time, who is laid off first, thefloor girl or machine operator?

A Usually the floor girl.

Q Who is called back first?

A The floor girl. Depends which floor girls youare talking about.

Q Well, let me ask, who returns first, dependng upon -- we will get to the type of girl, floor girl positions in a minute.

The floor girls or machine operators first?

A The floor girls.

Q Which floor girls return first?

A The girl that does the separating, the girl that does the lay-up.

Q Who did the separating in the fall of 1974 just before this layoff?

A Donna did.

Q Would she be called back regardless of her seniority? Would she be called back first?

A I presume so. She is the only one that does the separating.

Q And therefore, if she was the only one that did the separating would she be laid off regardless of the seniority?

A Certainly since she only does separating.

Q So does deniority prevail in the case of a layoff at the plant?

A Not only seniority but also the type of job that you were doing.

Q So it is important to look at who is doing what, because if there was only one person, one Merrow operator the regardless if she started a week ago she might be the last one laid off?

A Not necessarily.

Q If they needed a Merrow operator?

A I guess so then.

Q So when you testified that it's been past practice to keep the older girls on the logest, we wouldhave to qualify that to include the fact that it would be dependent upon what their job is?

A Well, if I remember correctly I said and also depending on how many operations they could do.

Q Oh, how many operations can you do?

A About four or five.

Q On which machines?

A Not on any machine. I'm not an operator.

Q Now, you gave some tetimony about notice in the event of layoff.

How much notice did you get this year?

A About two hours.

Q Were you the last one laid off?

A I and Ana Nemic.

Q You were questioned about Mr. Sciacca come to your house.

A Right.

Q With an authoizing card.

A Yes.

Q Is it your testimony that although you really weren't interested in theunion yousigned foryour fellow workers?

A Yes.

Q I show you General Counsel Exhibit 5 and ask you if that is your card signed?

A Yes.

Q Is your signature on it?

A Yes.

Q You did tell him during that conversation that the boss would rather close the shop than take the union in?

A Yes.

Q After that you signed the card?

A Right.

Q And during the period of your employment you had numerous conversations with Mrs. Harkavy?

A Yes.

Q How many conversations with Mrs. Harkavy?

A Not too many.

Q But you have come to understand that Mrs. Harkavy believed the shop is not big enough to hold a union?

A Well, she felt unions are good in other shops but shedidn't feel in our shop.

Q Did you ever make the statement, "I havecome to understand the bosses believe the shop is not big enough to hold a union"?

A Yes, I did.

Q Can you recall any specific time Mrs. Harkavy told you that?

A There was no specific time.

Q Were any other employees present when Mrs. Harkavy said that?

A I believe there was sometimes.

Q You were asked if Mrs. Harkavy toldyou that she would close down the shop if theunion came in.

A She never said in those words.

She never made the statement.

Q What words did she say?

A It was just my viewpoint that I got from talking with her.

Q Did Mr. Harkavy ever say that?

A No.

Q Did Mr. Harkavy ever tell you that he would close the shop under any circumstances?

A I believe he did, after theday that the union delegates came in or unionorganizers.

Q What did he say that day?

A Well, hecalled us to the back room and gave a statement in regard that he had lost about $15,000 in past orders and that he understood that the girls were looking tohave a union in the shop.

Q Did he say he could not afford the added expense of a union?

A He did say financially it would be a burden to him.

Q Did he leave it up to the girls to decide which way it would be and if they decided for the union then he would have to close the shop?

A He said it was up to the girls to decide what they want but if things got too bad he would have to close the shop.

Q Did he say if they decided for the union then he would have to close the shop?

A Not in those words.

Q Didyou give a sworn statement to an agent of the NLRB?

A Yes.

Q Do you --

JUDGE HERMAN: Show her thestatement.

MR. SCHER: Am I permitted to see that statement at this point?

JUDGE HERMAN: No.

Q I refer you to paragraph 13 of this statement.

Is that your statement and your signature?

A Yes.

Q And youdid swear to that statement?

A Yes.

Q Would you read paragraph 13?

A Yes.

Q You now recall in the speech that you described Mr. Barkavy said, "If we decided for the union then he would have to close theshop"?

A Well, in the first place Mr. Clark asked my viewpoint, my interpretation of that.

He did not ask for a direct statement. It was not Mr. Murray's direct statement.

Q Didyou read thestatement before you signed it?

A Yes.

Q And did you make a statement," He sadd business was very slow?

A Yes.

Q When you said "he," who are you talking about?

A Mr. Murray.

Q Did you say, "And very bad and the company could not afford added expense of having a union in the shop"?

A Yes.

He said words to that effect.

Q And that was your recollection?

A Yes.

Q Was it also your recollection that he said that"his accountant said he had lost about $15,000 because of cancelled orders, he left it up to the girls to decide which it would be, and that if they decided for the union he would have to close the shop"?

A Yes, I made that statement.

Q Are you now saying Mr. Harkavy did not say that he would have to close the shop if you decide to go for the union?

A He did say he would have to close theshop but he did it in the same way, if the union came in or didn'tcome in.

Q You told that to Mr. Clark?

A Yes.

That is what I understood.

Q Did you attbibute the statement to Mr. Harkavy?

A Yes.

JUDGE HERMAN: And now your testimony is your recollection is you understood that that is what Mr. Harkavy meant?

THEWITNESS: Right.

Q If I asked you the question you can only tell me what you understand he said?

A That's right.

Q Has your understanding changedfrom the time you gave the statement to Mr. Clark?

A Well, to the fact that I don't exactly remember him saying that exact words that if the union came in.

Q You testified to a conversation with Donna Moravec.

Do you recall being asked if you had discussed the union with Donna and answering thatDonna had a card and I told her to sign it because she was confused?

A Yes.

Q Was that before or after you signed your card?

Q You testified on direct that you told Millie Cacoperdo that, I signed,and at least you will get medical benefits, so sign the cadd?

A Right.

Q When did that conversation take place?

A We were going to work or coming home from work.

Q What day, do you remember?

A After I signed the card.

Q Are you sure that is what you said to her?

A They may not have been the exact words, but that was thegist of the convesation.

Q Well, I ask you now to think about that conversation and as best you recall, tell us what your exact words were.

A Well, she was between two minds whether to sign and she felt she was too old, she wouldn't get any benefits and that's when I said, at least you will get medical benefits, sign the card.

Q You are sure you didn't say, well, Millie,at least you can get some benefits from it, so maybeyou should think about signing the card and make up your own mind about it?

MR. SCHER: Objection.

JUDGE HERMAN: Overruled.

MR. SCHER: Your Honor, it is argumentative. There is no showing of a phone conversation.

MR. WEINRICH: It is cross-examination.

JUDGE HERMAN: That's right. And he is asking whether she might have aid that and he is entitled to an answer althogh I think this is being pushed too far, too.

A No, I did not say anything further.

Q On this occasion you are sure you said sign the card?

A Yes.

Q Now, Respondent's Exhibit 1, this is the letter you signed?

A Yes.

Q And you testified you discussed with your husband the fact that Mr. Sciacco had misrepresented toyou?

A Yes, I felt he did.

Q The fact you were the last one to sign the card?

A Right.

Q When was your conversation with Donna Moravec, with Mildred Eve and with Carmela Cacopedo, when you found out that they hadn't signed cards?

A That was the day after?

That was the 2nd and the 3rd.

Q Well, it was either the 2nd or 3rd if it was the day after.

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A It was the 2nd and the 3rd. Two days after the day I signed my card.

Q Before you signed the card on October 1st, had you ever heard any talk about the union in the shop?

A No.

Q That was all afteryou had signed the card?

A Yes.

Q Never spoke to Grace about it?

A No.

Q In your conversation with Mildred Eve, that was on October 1st, too?

A No, I believe it was the 3rd.

Q You testified you only went to girls, theolder girls after you prepared the letter?

A Right.

Q Was that because you believed it was thenewer girls that were instigating the union?

A No.

Q But you did believe it was the newer girls that were instigating the union?

A I had no idea who had started the union.

Q Didyou make a statement that you believed it wa s the newer girls?

A Since no union was started before I presumed it must have been one of the newer girls.

Q Did you ever make that statement?

A I don't remember if I did or not.

Q Did anybody ever tell you that Margaret Fassannante was a union plant

A Yes.

Q Who was that?

A Gabe did.

Q Was she a newer employee?

A Yes.

Q I call your attention to paragraph 9 of your statement and ask you to read that.

A Right.

Q Do you now recall making a statement that it seemed to me the new workers, Grace and Mary White had gotten the union started?

A Yes.

Q Is it correct that paragraph deals with the events leading up to your circulating the letter of October 5th?

A Yes.

Q Isn't it correct that you thought, "we had made a mistake in signing for the union"?

A Yes.

Q You thought the boss had been very good to you and was not -- it was not fair to go to the union?

A The boss had been good to us.

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Q Did you ever make a statement?

A Yes, I didmake that statement.

Q And it was thenext day after October 4th?

A No, it was not on the 4th.

Q It was not?

A It was the 5th. It was a Saturday.

Q I said the next -- you circulated theletter on the 5th.

In your statement in paragraph 9, whereyougo through the events leading up to your signing theletter.

A Right.

Q Do you know that paragraph mentions your dissatisfaction with Mr. Sciacca because you felt that he had misrepresented himself to you?

A Not in this paragraph, I don't believe so.

Q Look through it again to be sure.

A No, I don't believe I said anything in that paragraph about Mr. Sciacca misrepresenting himself.

JUDGE HERMAN: Or anywhere in the statement?

THE WITNESS: I believe I did in the beginning of the statement say I felt he misrepresented himself.

Q Over the fact you were not the last person to sign?

A No -- I don't think I put down that I was the last person to sign but I felt he misrepresented himself when he came to my house.

Q On what basis?

A I was not told when he came to the house that he was a union delegate.

He threw me when he came in. I did not expect him.

Q But you don't mention that he misreprestned to you that you were upset because you found out that you were not the last person to sign the card.

A No.

Q When did you show that letter to Mrs. Harkavy?

A Monday after the weekend that I went to work.

Q What time?

A Maybe a little after 8.

Q Right after you started?

A Right.

Q Did she keep a copy of the letter?

A Yes.

Q Did you have a conversation with her at that time?

A No, I just said this is thecopy of the letter that I had sent the union saying that I did not wantto be represented.

Q Did you thereafter see her speak with Ana Nelec?

A She mighthave spoke to her but I do not know what it was about.

Q You don't know if she spoke to her?

A No.

Q Did you tell Donna and Millie and Ana that you were going to give a copy of the letter to the boss?

A Yes.

Q I askyou to look at paragraph 10 of your statement.

A Idid, I told them that I was going to gie a copy to the boss on Monday.

Q And you also say, "I believe I did not tell Donna, Millie or Ana that I was going to give a copy of the letter to the boss at thetime I was talking to them on Saturday.

A No, I called them on Sunday.

Q After they signed theletter?

A Yes.

Q Did you have a conversation with each of them on Sunday?

A No, not really, I just told them tht each other had signed the letter and that I had send it to Gave.

Q Yes.

A And that I was giving a copy to --

Q To the bosses?

A To Mrs. Murray on Monday.

Q You believe you told themthat?

A That was before they had signed it on Saturday when I called them.

Q In your statement you said you believeyou didn't tell them on Saturday.

A I don't really remember that far back.

If the statement says I didn't, I didn't.

Q You know we are talking about very important conversations here.

JUDGE HERMAN: I think you have gotten her best recollection.

Q So there were other things you may have said to them on the 5th and 6th that you don't recall now?

MR. SCHER: Objection.

JUDGE HERMAN: Sustained.

Q Your conversation with Carmela Cacoperdo on one of the occasions when youdrove her home and told her that Mrs. Harkavy will take care ofyou when work comes in, didyou say that to her?

A I didn't say Mrs. Harkavy said.

Q What didyou say?

A We were discussing work and that it was coming down to a slowdwn and Millie waw concerned about her job, in the future, and also if there would be raises and I

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just mentioned there's been raises in the past and she;s always taken care of us.

Q Do you recall when that conversationtook place

A Not exactly.

Q Do you recall if it was before or after you circulated the October 5th letter?

A I think it was before.

Q During thesame ride where you had that conversation, did you discuss theunion with her at all?

A I might have. I can't say for sure.

Q Was that the same day thatyou told her that you had a discussion about orders not being taken any more?

A We were discussing orders but I can't say exactly if it was the same day.

Q Can you say exactly whatyou said about the orders to her?

A I said there was no new orders coming in, it was the end of the season and there would be new orders coming towards thenew season.

Q Did you discuss union in that conversation?

A I really don't know if I did.

JUDGE HERMAN: I can't hear you.

THE WITNESS: I might have. I don't remember.

Q You did tell Mrs. Cacoperdo thatyou thought Mrs. Harkavy would rather closethe shop?

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A Yes.

Q Than let theunion in?

A I don't think I said it that way.

Q Did you ever give Mrs. Cacoperdo work at the plant?

A Yes.

Q Relayed instructions from Mrs. Harkavy?

A Right, at times.

Q You gave testomony concerning Mary White.

Do you know how to operate the Mauser?

A No.

Q Did you ever watch her operate it?

A I've seen her occasionally, yes.

Q You were told to shorten the borders, they were too long?

A I was told to take the borders off bedause some of them were too short or too long.

Q These are borders that --

A Mary White had put on.

Q That was October 7th?

A I believe that was the date she was laid off.

Q Were you told whether the borders were too tight?

A YOu could see if the material was too tight or too loose, the garment was bunched up.

Q Did you see?

A Yes.

Q But they were also too short and too long?

A Naturally the border is just the length in front of the garment.

Q Explain that.

A If the garment is 26 inches long and the border is only 22 inches long, we couldn't possibly stretch a 22-inch border to 26.

Q So you are saying shott and long in this sense as synonymous with tight and loose?

A Right.

MR. WEINRICH: No further questions.

REDIRECT EXAMINATION

BY MR. SCHER:

Q In yourcross-examination you were asked whether as part ofyour training that a forelady would have, whetheryou had learned to operate any machinery and you no.

A I am not an operator.

Q Are you learning any part of theoperation of the machinery such as threading?

A Yes.

Q Were you learning that before you were laid off?

A Yes.

Q You referred to the fact thatyou keep an oder bo

A Yes.

A Yes.

Q Is a bgtter description a cutting book?

A I guess you would call it, right.

Q So that when you called it an order book you did notmean a book that records orders that come to the company?

A Right.

Q You meant a book that keeps the recotds of what is cut in the cutting area?

A Right.

Q You testified on cross you had said to a board agent when you gave thestatement that you gave directions to employees.

You tried to clarify what you meant by diretions.

A I'm given directions to give them.

Q To the employees?

A Right.

Q After you tell theemployees what Mrs. Harkavy wants them to do what do the employees do if they haveany questions about the work?

A They usuaully call me andask me to get Mrs. Murray to explain it.

Q You testified on cross examination about the September 27th telegram cancelling the Sweater Bee order.

A Yes.

Q Did you hear the tetimony this morning of Mrs. Delfino about the fact that work was dwindling down and slowing down in September?

A Right.

Q Did you hear the testimony some days before today by Ana Nemic that work was dwindling and slwoing down in September?

A Yes.

Q Could you explain what looks like an inconsistency between their statements that work was slowing down in Septmber and your statement there was enough work for them until that September 27th cancellation?

A I didn't mean that this was an excess amount but there was enough to keep everyone working to a great extent.

They may not have worked a full day but enough to keep them working.

Q Now, on cross examination you were asked if it were'n't true in determining the order of laying off people that thecompany would clook at what theemployee is doing as well as what the person's seniority was and you said that was correct.

A Right.

Q You then added that the company would also look and see how many operations the person could do and if the person could do more would hang on to them?

A Yes.

Q Now, was it also taken into consideration how good a worker was?

A Of course.

Q On cross-examination you were asked whether therewas anyghing in the statement that you had been -- you had given to the board about Gabe Sciacca having misrepresented to you that you were the last one to sign and whether there was anything in your statement that you had given about your having a conversation with your husband.

A Yes.

Q I want to ask you, despite the fact there was nothing in your statement about these two items, is your testimony today thatMr. Sciacca misrepresented toyou that you were the last girl to sign?

A Yes.

JUDGE HERMAN: She testified to that.

MR. WEINRICH: Objection, Move to strike.

JUDGE HERMAN: That is her recollection today.

Q Is it possible Mr. Clark did not ask you about these things?

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1 MR. KUSHNER: Objection.

JUDGE HERMAN: Overruled.

A He did not ask me anything about how it came about, the drafting of the letter.

Q Would it be fair to say thestatement you gve to the board agent was the --

JUDGE HERMAN: Don't lead the witness.

Q Who wrote out the statement which you signed for the board agent?

A Mr. Clark did.

Q What was the procedure used by the board agent in writing out what we have referred to as your statement?

A Mr. Clark asked me quetions and I answered them.

Q Then he would write?

A 1 He wrote down my answers. Not the questions.

Q You were here at one day of this proceeding, we e you not, when Donna Moravec testified?

A Yes.

Q When she testified regarding the circumstances surrounding her signing the card, that before she signed she asked you to -- that before she signedyou asked her if she had signed and when she said no, you said to her, go ahead and sign, anyway.

Was that an accurate statement by Donna Moravec?

PROCEEDINGS

JUDGE HERMAN: On the record.

MR. SCHER: I call as the second witness for the Respondent, Murray Harkavy.

MR. HARKAVY: Do I get up?

MR. SCHER: Yes, you take tha[illegible]at. You will be sworn in by the Judge.

MURRAY HARKAVY

was called as a witness by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Scher) Mr. Harkavy, what is your position with Solboro Knitting?

A I am president of Solboro Knitting and a vice president.

Q And --

JUDGE HERMAN: President and vice president?

THE WITNESS: Yes.

JUDGE HERMAN: That's an unusual combination.

Q (By Mr. Scher) How long have you served in that capacity?

A Since 1966, perhaps '65. The date escapes me.

Q Whom did you succeed?

A Well, we reorganized the firm. I then became

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president. Prior to that, my mother was the president.

JUDGE HERMAN: Would you keep your voice up, please?

THE WITNESS: All right.

Q (By Mr. Scher) Now, have you, since that period of time; that is, in ten years, since '65, have you been actively involved on a day-to-day basis in the operations of the company?

A Yes.

Q As a matter of fact, what is your work pattern with respect to whether you are at the shop or not at the shop on a day-to-day basis?

A The general overseeing of the basis of orders, getting of orders, and the type of line that we're to put out, and the, I would say that the general conduct of the knitting room would be specifically in my domain and the shipping.

Q Are you at the shop every day?

A Yes.

Q I want to ask you to think back to the fall of 1974

A May I intercede? I also take care of the records.

Q The records of the company?

A Yes.

Q By "records," what specific records?

A We're talking about orders, shipping, pay roll record

Q Cutting records, as well?

A Cutting records is Mrs. Harkavy's domain.

Q And is there some specific area of the shop that you conduct the bulk of your business or spend the bulk of your time each day in?

A I would say mainly it's the office, the knitting room and the shipping.

Q All right, now, I'd like to ask you to think back to the fall of 1974, specifically the months of September and October of 1974.

Do you recall a time when you were visited by a person who identified himself as being with Local 107 of the ILGWU?

A Yes, I do.

Q Can you tell us, as best you can recollect, what date that occurred?

A It was a Friday, I think, October 4th.

Q In any event, it was the first Friday during the month of October?

A Yes.

MR. SCHER: Let the record show that the first Friday of the month of October was October 4.

Q (By Mr. Scher) Now, approximately what time did that visit to your plant take place?

A I would say eight-thirtyish.

Q In the morning?

A Yes, a.m.

Q And who came to your office?

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First of all, do you recollect the events of that morning?

A Yes, I do.

Q And tell us where were you at eight-thirty in the morning?

A My wife and I were sitting at the desk and having breakfast.

Q At the desk, meaning in your office?

A Yes, in the office.

Q Who came to your office? Describe, as best you can recollect, what transpired.

A A man and woman appeared at the door and knocked, and I asked, "Yes, what is it?" And they said --

Q He said?

A Yes, he said --

Q Would you please speak up?

A He had a card in his hand and he said, "I am" -- I believe Gaspar Sciacca was his last name, "and I represent the Local 107 and I would like to show you that I represent the girls of Solboro Knitting Mills."

Q Who was with him; do you know?

A There was a woman with him.

Q Did she say anything at that time?

A No, she was just carrying a brief -- or a case of some sort.

Q What was your response to Mr. Sciacca?

A I said that, "Can't you see I'm eating breakfast? And if you want to see me, please make an appointment."

Q What did Mr. Sciacca say to you?

A He sort of hesitated and he said, "Well, what do you mean?" I said that, "I'm now eating breakfast. I don't see anybody without an appointment. Please make an appointment with me," and he more or less stood in a state of hesitation, and I said, I followed up and insisted he make an appointment.

"I do not see people without an appointment," and, as he started to leave he said, "I can prove that I represent the girls or the workers of Solboro." I believe it was "girls," and I said, "Well, please make an appointment. We'll discuss it. Or send me a letter."

Q What was his response to that?

A He, he just walked out.

Q All right, now, was there a time later in that day that you spoke to a group of your employees in the shop?

A Yes, at noontime.

Q Approximately what time of the day was that?

A It was noontime.

Q And where did that take place?

A In the rear of the shop where most of the girls came -- tend to gather.

Q At or near a lunch area?

A Well, the girls more or less have adapted that area near the pressing department for their lunch period.

There is a long, a couple of long tables, and they gather chairs, and so forth.

Q And they have their lunch at those tables?

A (The witness nodded.)

Q All right, now, do you have a general recollection of what number of people were there?

A I would say that there was at least nine to ten were there prior to my going to the table.

I asked for the rest, everybody in the shop, to come to the rear so that -- because I wanted to speak to them.

Q Now, do you recollect with as much precision as you can what you said to the people?

A I believe I started off saying that I wanted to take a few minutes of their time, and, as I understand, that some people here would like to be represented by the Union, and I said, "I don't know if you're aware of the economic situation of the company, of the industry in general," and I brought out the fact that, or the known fact to me, at least, that expenses would be rising due to Union benefits and that we had been, we had just lost a major order, having cancellation from Sweater Bee, which everyone knew is one of the major items of our line.

I had been informed by my accountant just the previous Wednesday that the company had lost $15,000 for the fiscal year, and that the general market conditions were that the Hong Kong was extremely active, and that the general market conditions were that the Hong Kong was extremely active, the buyers were doing a lot of buying in Hong Kong and neglecting the domestic market; that, in general, the customers were very, very hesitant about giving orders and were very tight about their delivery schedules, and that I didn't see how Solboro, if all these economic conditions persisted, I didn't see how Solboro could survive this kind of economic situation, and that was generally the whole basis of the statement.

Q Were all of the remarks, remarks you made to the people at the rear of the shop?

A Yes, they were all there.

THE WITNESS: Your Honor, may I add something to the statement I did make concerning my speech?

JUDGE HERMAN: Yes.

THE WITNESS: I did say to the girls that this is their decision as to which way they'd like to decide, but I would like to make them aware of what, what the general condition of the company was and what the industry was suffering.

Q (By Mr. Scher) You made that statement to them, as well?

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A Yes, that was the end of the little talk that I gave.

Q Can you remember precisely what language you used when you said that?

A I said, "This is America and you are free to, you know, vote any way you like, but that the general economic condition, situation of the country and Solboro is a situation -- I don't know how we can survive added economic expenses."

Q Now, incidentally, you made the statement that you advised them, which you thought was common knowledge, about the loss of the Sweater Bee order.

Roughly, what percent of the labor that was employed at the Solboro at that time was engaged in the production of sweaters for the Sweater Bee order?

A I would say about sixty, sixty-five percent.

Q All right, then --

THE WITNESS: Would I be allowed to expand on that?

JUDGE HERMAN: Go on.

MR. SCHER: Yes.

THE WITNESS: The Sweater Bee, the item we were making for Sweater Bee was a fur-trimmed sweater which is a very expensive retailing item and a very complicated item, so there is a lot of work on that particular sweater which called for many of the workers to participate in the production of that particular item.

MR. SCHER: That is --

THE WITNESS: More so than in some of the other simpler items we were running.

Q (By Mr. Scher) Where a few of them --

A (Continuing) Where we were applying fur, we were making fur collars, we were applying almost like a hand-tacking arrangement, and that all incurred additional pressing, additional handling, additional detail work on it, which that's why it accounts for such a high percentage of the work.

Q I would like to ask you to now recollect that period of time with relation to orders that the company had and knitting machine production and general production in the shop and tell us, if you would, what --

THE WITNESS: Can we break that down?

Q (By Mr. Scher) Let's start out with this: Is there some frame of reference that the company operates with regard to, a season or the season for the company?

A Well, the frame of reference would be the orders first in would be first out. Orders that designate a specific delivery time might receive better attention to come within the delivery date than an order that did not specify a specific delivery time.

Q Is there any traditional season that you have, that you are aware of, when fall approaches, the ending of the season?

Is there any deadline date or frame of reference in that connection?

A In general, I would say that in the industry it's known that November 15th is the cutoff date for shipment of merchandise, for merchandise to be in the stores for Christmas time.

Q For retail sales?

A For retail sales, yes.

Q And is that generally true with respect to the work cycle at Solboro, also? That is, that kind of a general deadline applies also to Solboro?

A Well, the general deadline would apply in those years until we had work to those dates, but there were many years we didn't have work that would bring us to that date. In other words, we had years where we had earlier layoffs.

Q Let's talk first about 1974. Can you tell us, generally, what was the economic picture in the industry regarding the type of work that Solboro does?

A What part of 1974 are you referring to?

Q September, October.

A I would say the economic situation was directly related to the sales at the store level, which were very depressed, so that my customers, my customers were very, very shaky and very, very -- they were running scared.

They were worrying about high-fashion merchandise being delivered too late.

MR. WEINRICH: I object, Your Honor, and move to strike.

JUDGE HERMAN: Is this what they told you?

THE WITNESS: Yes.

JUDGE HERMAN: Go on.

Q (By Mr. Scher) In what form did you receive those communications?

A Well, the production man usually came, I'd say, two, three times a week.

Q Into your shop?

A Yes, came to the shop.

Q Spoke to you?

A To gauge the delivery schedule and see how the work is going on. More or less to see if their merchandise was being made to specifications, and they would constantly bring up the fact that they're really running behind, way behind; the stores are canceling, and if we don't get the merchandise out, we're going to be in big trouble.

Q Approximately when did this start happening to you, in the fall?

A Well, actually it started happening in August, late August, I started to get the indication that the stores were canceling.

Q And, now, is there anything specific that you can tell us with regard to the work that Solboro does within the industry; that is, with respect to knitwork, which is what Solboro does?

What was happening with knitwear?

A Would you -- I don't get the gist of the question.

Q All right, aside from the testimony that you had just given that production men were visiting you two or three times a week and talking about cancellation of orders that they were going to be sending on to retail stores, what was happening with knitwear generally, which is your major line?

A I wasn't receiving any re-orders, which I usually do during the holiday season.

Q Holiday season meaning what?

A It would start from August to October, so during August I received no re-orders on merchandise.

It was just merchandise that had been previously ordered and was scheduled. In particular, talk of the Sweater Bee order, was scheduled for delivery August 30th and I received no re-orders, and that was a very important item in our line, because we had expended a lot of money an energy to produce that, to design that item and successfull sell it.

Q What about the other sweater lines?

A I had received no re-orders from Penrose. Penrose had given me an early order starting in May through, I'd say, July. I was receiving confirmations, telephone confirmations of re-orders in small cuantities.

And Spuncraft placed small orders, in, I believe it was late August, for September, October delivery. That was the verbal commitment.

Q All right, was there any activity that related to your production during that period that involved buyers of your merchandise? Was there anything happening with respect to buyers?

A Well, my immediate buyers were reflecting the condition of the depressed sales in the stores.

Q Did you have either visits or telephone conversations with them?

A I deal with the production man.

JUDGE HERMAN: You mean as distinguished from the production men?

THE WITNESS: I deal with the production men. I don't deal directly with the principals of a large organization like Sweater Bee.

Q (By Mr. Scher) All right, what can you tell us, if anything, with respect to the conduct of the buyers of your products?

A Well, in general, they were very agitated and nervous because --

MR. WEINRICH: Objection; move to strike.

of 1974?

A Well, starting with August, I can give you a, more or less a rundown. I would say orders were shipped --

MR. WEINRICH: Objection.

JUDGE HERMAN: If he is trying to testify to this, those documents are going to have to be made available to General Counsel.

THE WITNESS: Which would you prefer me to do?

JUDGE HERMAN: That's up to you. I think counsel asked you whether you can testify without refreshing your recollection, on the basis of your present knowledge, and you indicated you could.

THE WITNESS: Yes.

JUDGE HERMAN: I think we ought to have that testimony.

THE WITNESS: I would say that we had about 480 dozen shipped in August, about 350 shipped in September, and it dwindled down to about 250 or 260 in October.

Q (By Mr. Scher) Is there a weekly norm in terms of dozens that are shipped?

A Ordinarily, it's about 120. On this, with these particular, that fur-trimmed item, which was a very complicated item, our production was nearer 125 to 150 dozen, overall, per week.

Q Then, was that generally true throughout August?

A No, it was not true. I've had a lot of production problems. I think in July we did better, but August we had a lot of production problems.

Q How about September?

A There we had a production problem as well, because we had a completely new crew, practically completely new crew in the place, and it was very difficult to get the merchandise through, made in the proper way, which we felt was proper to ship, and they were inexperienced in that type of operation, knowledge of the people, and, consequently, we had a -- we had quite a fall-off, expecially in the Sweater Bee production.

Q You mentioned sixty to sixty-five percent of your labor was involved with the production of the sweaters under the Sweater Bee order.

What was the effect of the cancellation of the Sweater Bee order on shipments?

To begin with, do you recollect the date of the cancellation of the Sweater Bee order?

A I received a telegram, I believe it was on the 29th of September. It was a Monday, the Monday prior to October 4th.

JUDGE HERMAN: That would be September 30th.

A (Continuing) Then it was September 30th I received it, stating that --

MR. SCHER: Just a minute.

Q (By Mr. Scher) Are you absolutely certain that the date of your receipt of that telegram was September 29, or might it have been --

JUDGE HERMAN: It was September 30.

A It was Monday --

JUDGE HERMAN: He said the Monday before October 4, which would be the 30th of September.

Q (By Mr. Scher) I'd like to show you Respondent's Exhibit 4 which is in evidence, and ask you if this is the telegram that you received.

A This is, yes.

Q Excuse me?

A Yes, this is the telegram.

JUDGE HERMAN: That's the telegram you were just testifying about?

THE WITNESS: Correct.

Q (By Mr. Scher) Now, what effect did the cancellation of the Sweater Bee order, the balance of the Sweater Bee order, as communicated to you by this telegram from the order, as communicated to you by this telegram from the company, what effect did that have upon production in the shop?

A Oh, it meant all Sweater Bee goods that was in process would be, I would be, it would be left in my, to my responsibility and my costs, which meant all the labor, materials, all the -- rather, not labor, materials, but the materials that went into the garment, the sweater, yarn, the fur and the labor that was put into them, would now be my, my responsibility.

MR. KUSHNER: Objection. I move to strike that. That wasn't responsive to the question.

The question was what effect did it have on production.

JUDGE HERMAN: The motion to strike is granted.

Q (By Mr. Scher) All right, Mr. Harkavy, can you tell us what was the actual effect on production of the cancellation of the balance of the Sweater Bee order?

A Do you mean --

Q The objection to your testimony was because you put it in terms of what would have happened, as if you were describing a normal reaction.

What we want to show is what actually happened.

A Well, I had to take into consideration what I'm going to do as far as -- since so many of my people were working on that particular item and so much depended on that item, how it affected my thinking as to the basis of what people to have --

Q What effect did it have on the knitting machines?

A The knitting machines were not even functioning at that time, just in a very small quantity.

Q Talking about the knitting machines for the moment --

A Yes.

Q -- what was happening with the knitting machines during the month of September?

A Well, it was a general tapering off, because I received no re-orders, so I had a small, very limited quantity of work to do.

Q How many knitting machines do you have in the shop?

A I had four major knitting machines.

Q And how many were working in September?

A I would say it varied from the beginning of the month to two to three. I would say, the second or third week of the month, it was down to one.

Q What was that machine doing?

A That machine was finishing off some Spuncraft knitting and, also, we were utilizing some sample, sampling orders, that we were trying to generate business with.

Q Is there a relationship between the activity of the knitting machines and the ultimate flow of work for production in the shop?

A Yes, definitely.

Q Would you describe that?

A Well, the main flow of operation would be, as the yarn comes in, it's put on the knitting machines. The knitting machines, what they produce then would follow into the finishing departments to be finished and produced and shipped out.

But the knitting would be the, I guess, the basic operation that generates the whole cycle.

Q Incidentally, what happened to the flow of shipments after the Sweater Bee cancellation came in?

You testified that during August and September as to the number of dozens that were shipped out.

What happened after the cancellation of the Sweater Bee order as far as shipments out are concerned?

A Well, as I stated, I believe August is about 480 in shipments and September was about 350 or 360 and October went to 260, and October was critical in the sense since I had a cancellation from Sweater Bee I was extremely worried about cancellations, you know, from other sources.

I had a verbal demand by Spuncraft that all this must be shipped by October 30th, and which I did meet that delivery schedule, and as, as of October 30th, I really had no more goods to ship to anybody. I had completely cleaned out my residual orders.

Q Do you remember how many shipments went out, say, after the Sweater Bee cancellation?

A I would say four to five shipments.

Q From that point on, through October 30th?

A Yes.

Q Was this cancellation of the Sweater Bee order a normal occurrence in the operations of your company?

A To be frank, I've never had a cancellation since I've been doing business.

Q Aside from this one?

A That's correct. I've had times where I've had orders for a particular style or a number of styles and the customer may say, "Look, let's drop Style A and put that amount of goods into Style B because that's selling better in the stores."

I wouldn't consider that a cancellation. I would just consider that a shift in the, in the styling operation, but the amount of goods would remain the same, but I never had a cancellation of this type.

Q You have already testified that you are at the shop on a daily basis and that you have been in active charge of various operations at the company since 1965.

Can you compare for us the production in the company in the September-October period -- first of all, can you tell us the relationship between the testimony you have given us on the turn-down or turn-off of the knitting machine operation as it progressed during the month of September and the layoffs that occurred at the company?

What was the relation between the layoffs that took place and the timing of those layoffs and with what was happening?

A You went from one thing to another. Would you please try to bring it to a more precise --

Q All right, the shipments that went out in the month of October, what were those shipments of?

A Those shipments were the balance of goods that was owed to, to customers; Penrose and Spuncraft, and they were, in general, classic type of garments in styling features.

Q Were they less complicated to do than the Sweater Bee operation?

A Extremely so, because the fur application was completely removed from that type of sweater. We had fur on the collars and on the cuffs of the, of the Sweater Bee garments, which entailed a considerable amount of detail work.

Q Are you familiar with the layoffs that took place in the company earlier in 1974, the spring of 1974?

A Yes, I am familiar with it. That was due to a lag-over between the previous year's business and the start of the new fall season for '74.

We had a residual from '73 that carried us until, I believe, January, and then we had a big sampling period and a design period where we had to develop new numbers, which we developed this fur-trimmed garment, and that started the fall season. I believe it started in May.

Q Are you familiar with the layoffs that took place in the fall of 1973? 804

A Yes, I'm familiar with that.

Q Now, there has been testimony that the layoffs that began at the end of the season, in the fall of '73, began the first week of November.

Can you explain the difference between the layoffs that took place in the fall of '73 and the layoffs that took place in the fall of '74?

A In '73, the customer we had was a -- he gave a fairly large order, early spring, and that production ran through, I believe, August of '73. They didn't renew for the holiday, and -- but they had kept me more or less on a string that they were going to renew for holiday, and I was very much anticipating their business, so I acquired very little other business, and when they didn't come through with their holiday business, I was left with just small orders, one or two customers, and it just didn't bring me too far into that part of the year, so I ended in November.

Q Are you familiar with a layoff that took place one year before that, in 1972?

A I would have to refresh my recollection right on that to particular -- to specific details of it, but we find that one season doesn't absolutely correlate with another season.

We find for various styling reasons and various economic conditions, we find ourselves either working very heavily or working -- or completely stopped. We seem to have a go or no go basis.

Q Over the years -- let's take '72, '73 and '74 -- can you recall the approximate time in the fall when layoffs began in 1972?

A Without refreshing my memory with the pay roll records, I don't believe I could.

Q Do you have the pay roll record here for 1972?

A Yes. I believe it's a small black book.

MR. SCHER: Let the record show that I am delivering to the witness for the purpose of refreshing his recollection on the layoff period of the fall of 1972, the company's pay roll book for 1972.

THE WITNESS: In 1972, the fall brought us right into, practically Christmas time. In fact, they were working the week of the 23rd.

But I believe '72 had a much, an earlier period of layoffs that was not in the same pattern.

Q (By Mr. Scher) When did those layoffs begin in '72?

A Just a moment now and I'll find out for you.

We start to get a tapering off beginning of June in '72.

JUDGE HERMAN: When did the layoffs begin?

THE WITNESS: In June, the week of June 10th, the week ending June 10, '72.

Q (By Mr. Scher) And would you be good enough to trace forward, going into the fall, as evidenced by the pay roll book, that how that layoff --

A May I correct that, please? We had the week ending May 27th, we had fifteen employees functioning. Week of June 3rd, we dropped down; we had ten.

Week ending June 10th, we had seven, and these were all not full time, these were -- some were part-time hours.

If you want me to go into that, I can, too.

Q Do you recall the reduction of your work force at that time being in response to the business condition at the company?

A Absolutely, yes.

Q Can you recollect what was happening in the way of orders or re-orders and production of the knitting machines at that time that resulted in the layoffs?

A I believe I was involved with making of the knitted dresses at that time, and the knitted dress business also had a down-turn, and the customer I was dealing with just stopped ordering dresses and I found myself having to redesign a new line, again.

And that's why, during the interim of designing a new line and getting new customers, we find we just don't have the, enough work for the employees.

Q As a result of your customer not placing new orders and re-orders with you, did this have an impact on the knitting machines at that time?

A Yes, definitely. When the orders which are on hand were finished, then there was nothing for the knitters to do; the knitting machines didn't function, except to make new styles.

Q New samples?

A Samples, yes.

THE WITNESS: May I continue how long that lasted?

MR. SCHER: Yes.

MR. WEINRICH: Your Honor, I object and I want to note that the document was handed to the witness to refresh his recollection. Obviously, the document is not refreshing his recollection because he is reading from the document.

I suggest that it be put into evidence unless it does refresh his recollection. I don't mind if the document goes into evidence. I think we're wasting time if the witness reads it, though.

JUDGE HERMAN: I think that General Counsel has a point.

MR. SCHER: I'll be very happy to offer it into evidence, Your Honor.

JUDGE HERMAN: Very good.

evidence, it speaks for itself, and we no longer need the testimony of the witness on that point.

JUDGE HERMAN: I think that's fair enough.

MR. SCHER: O. K.

Q (By Mr. Scher) Mr. Harkavy, do the pay roll records of the company for the years 1973 and 1974 also indicate, in each of the weeks, the number of persons employed by the company?

A Yes, they do.

Q And so that is it fair to state that they would also show those persons employed by the company during those years who suffered a reduction either in the number of hour that they worked in certain weeks or who did not work at all in certain weeks?

A Yes, it would show that.

JUDGE HERMAN: Are those records contained in that same book?

MR. SCHER: No, this is simply 1972 pay roll book.

JUDGE HERMAN: Are we going to get those records into evidence?

MR. SCHER: We are.

Q (By Mr. Scher) I show you two additional books bearing the title of "Pay Roll Book" on them, and ask you could you identify these books? Are these the 1973 and 1974 —

A This is '73, yes.

Q -- pay roll books of the company?

A Yes.

MR. SCHER: Your Honor, I'd like to have the 1973 pay roll book of the company identified and offered into evidence as Respondent's Exhibit No. 6, and the 1974 pay roll book of the company marked for identification and offered into evidence as Respondent's Exhibit No. 7.

JUDGE HERMAN: Any objection?

MR. WEINRICH: May I ask counsel a question off the record?

JUDGE HERMAN: Off the record.

(Discussion off the record.)

MR. SCHER: Your Honor, I'd like to withdraw the offer of Respondent's Exhibit 7, and, instead, offer into evidence the pay roll record of the company in 1974, covering the period August --

MR. WEINRICH: No, all of 1974 and --

MR. SCHER: I'd like to withdraw the offer into evidence of the pay roll record for all of 1973, and, instead, offer only the record for the period in 1973, from August 15, 1973 through December 29, 1973.

JUDGE HERMAN: This is Respondent's Exhibit 6 now, the pay roll records for the period August 15th to December 29th, 1973?

MR. SCHER: That's correct.

JUDGE HERMAN: No objections?

MR. WEINRICH: I have no objection.

I haven't seen it.

MR. SCHER: Oh.

MR. HERMAN: Now, see it and tell me if you [illegible] an objection.

Off the record.

(Discussion off the record.)

JUDGE HERMAN: Renew your offer. Withdraw what you just put in and re-offer your exhibit.

MR. SCHER: My final revised offer into evidence of pay roll records beyond the pay roll records for the full year of 1972, which have already been admitted as Respondent's Exhibit 5, is for Respondent's Exhibit 6, the entire pay roll book for 1973, and as Respondent's Exhibit 7, the entire pay roll book for the year 1974.

JUDGE HERMAN: And there is no objection?

MR. WEINRICH: No objection, Your Honor.

JUDGE HERMAN: Mr. Kushner?

MR. KUSHNER: No objection.

MR. HERMAN: They're received.

(The documents above-referred to were deemed marked Respondent's Exhibits Nos. 6 and 7, marked for Identification and Received in Evidence.)

CSA Reporting

Q (By Mr. Scher) Mr. Harkavy, can you tell us, from your knowledge, when the last shipment was made by the company in the fall of 1974?

A I believe it was October 30th.

MR. SCHER: I have no further questions.

JUDGE HERMAN: You may cross-examine, Mr. Weinrich. Off the record.

(Discussion off the record.)

JUDGE HERMAN: On the record.

CROSS-EXAMINATION

Q (By Mr. Weinrich) Mr. Harkavy, you testified to some extent about orders received in various years.

Are your orders received on documents or verbally?

A Both.

Q Do you keep any records of your orders which are received?

A Well, I keep records, yes, but I don't keep them permanently.

Q There comes a time when you destroy those records?

A Yes.

Q Are those records kept in a -- well, how long do you keep order records before they're destroyed?

A There is no definite arrangement. Usually, when I ship out the merchandise, that's the finish of the order, and I have my own cutting records or invoice shipment records I have retained.

Q So, from year to year, in other words, you would not be able to compare your orders based upon your order book because you would have destroyed that book, is that correct?

A I don't have an order book per se. I usually keep just a small notebook that I enter the orders as they come in. As they're shipped out, there is no need to retain --

Q You don't have a black binder in which you keep your orders?

A No, I keep my invoices, my shipment invoices in a black binder.

Q Have you, as of this date, destroyed your orders for the year 1974?

A No.

Q Do you have those orders present in the room?

A Yes, I do. I would say, in the main, yes, I do.

I have some, perhaps an order in January, a very small order, that I don't have with me.

Q Would that be from Colleen Knitwear?

A I believe it was, yes. I believe it was Colleen, yes.

MR. WEINRICH: At this time, I ask counsel or the witness to produce the 1974 order book.

THE WITNESS: It's not an order book. It's a --

MR. WEINRICH: Those orders that are present in this room.

JUDGE HERMAN: Are these all the --

THE WITNESS: Let me examine them first and I can tell you if they're all of them.

MR. WEINRICH: O. K., fine.

THE WITNESS: Yes, these are.

Q (By Mr. Weinrich) Now, you testified that your area or areas of concentration in the company were general overseeing, orders, the getting of orders, the type of line put out, the general conduct of the knitting room and shipping.

Is it correct that you were not directly involved in the day-to-day production of the goods, that somebody else oversaw that portion of the business?

A Yes, I would say someone else oversaw that.

Q And would that be your wife?

A Yes.

Q Now, you talk about the knitting room. Is the knitting room a separate facility within your building?

A It's not a contained facility, but it's an area that I designate the knitting room. That would contain the knitting machines per se.

Q You also testified that the first sign of a slow-down and possibly a layoff is that the knitting machines will stop, is that correct?

A The first visible sign to the shop, yes.

Q It's also correct that after those machines stop, the knitter is not laid off, he continues on, is that correct?

JUDGE HERMAN: Answer.

A That is correct, yes. Sorry.

Q (By Mr. Weinrich) You stated that sixty to sixty-five percent of your labor was spent on the Sweater Bee order.

A Correct.

Q Could you tell us who the people were, what jobs they did? Are you familiar with that?

A Yes, I can tell you who the people were. In general, I can tell you.

We have, starting with the knitter, from the knitting we go to the steaming operation -- separating -- excuse me. It would be separated, which is Donna Moravec did the separating. From there it went to the steaming operation.

Q Who steamed --

A The presser did, the steamer.

Q Andrew Zimmerman?

A Andrew Zimmerman, yes. Prior to that, I had another gentleman that was involved in the situation, but the presser would do the steaming and the pressing, and, from there, it went to the lay-up tables which was Jo O'Connell, and --

Q Is that where it would be cut?

A No, it would be laid up, prepared for cutting, and the cutting operation was handled by Mrs. Harkavy, and from the cutting operation she then designated to which operators it would go as far as the Merrowing and Singering and the preparation of the fur collars.

Q You don't know who put the fur collars on, do you?

A Who put them on?

Q Right.

A We had several people put them on. It was interchangeable. Among others was we had a young lady in the summer who was the summer operator, Hoduckovich, and then we had Joyce Brown put collars on, we had another young lady -- I can't recall her name. She stayed for a short while. We had Jo O'Connell put collars on.

Q Jo O'Connell operated a machine?

A It's not a machine. Well, I guess you could call it a machine. Sort of a fastening machine, power operated, air pressure machine.

And I am trying to think of who else put those collars on. We had various people that fastened that collar on.

Q You don't know specifically who the others were, is that correct?

A Offhand, I would say I don't, no.

Q Was your order by Sweater Bee the largest of your orders received during the 1974 season?

A In monetary, yes. Monetary as well as volume. I have to give both. Excuse me.

MR. KUSHNER: I didn't hear the answer to that.

THE WITNESS: Monetary as well as volume, it was the largest.

MR. WEINRICH: Could we mark these as General Counsel's Exhibit 14 for Identification?

MR. SCHER: All of the orders or just sweater orders?

MR. WEINRICH: I'm having the Sweater Bee orders marked as General Counsel's Exhibit 14.

MR. SCHER: Is there any reason you want to limit it to Sweater Bee instead of marking all the orders?

MR. WEINRICH: Yes, because I'm going to deal with Sweater Bee at this time and I think that would be easier.

(The documents above-referred to were marked as General Counsel's Exhibits Nos. 14-A through 14-G for Identification.)

Q (By Mr. Weinrich) I show you General Counsel's Exhibits marked for Identification as General Counsel's Exhibits 14-A through G, and I ask you to look through those and tell us if those constitute all of the orders received by your company from Sweater Bee.

JUDGE HERMAN: In 1974.

Q (Continuing) For 1974.

A As far as I can recollect, yes.

Q (By Mr. Weinrich) Do you recall if on September the

2nd, 1974 there was a request by Sweater Bee --

THE WITNESS: Excuse me, excuse me, Mr. Weinrich. There was one addition. I had some additional yarn left over and the, Mr. Taylor, Sandy Taylor, the production man for Sweater Bee, did ask me to run the balance of the yarn off. I believe it came to thirty dozen, and that was early September.

I don't believe I have that letter here, because I asked him to confirm it.

Q (By Mr. Weinrich) Right, so that would be an additional thirty dozen?

A Yes.

Q On or about September the 2nd of 1974?

A Somewhere in that area, yes.

Q From looking at those orders, is it correct that the order from Sweater Bee totaled slightly in excess of one thousand dozen --

A That's correct.

Q -- pieces?

A Yes, one thousand dozen, yes, and all of that one thousand dozen, except for approximately 88 dozen, were of two styles, "Your Style 1995 and 1996." 88, this was the -- yes, that would be correct.

Q The 88 dozen that were not of that style, were they fur-trimmed?

A No, that was just a V cardigan.

MRS. HARKAVY: V-neck.

MR. SCHER: Keep your voice up.

THE WITNESS: I will.

Q (By Mr. Weinrich) Now, Mr. Harkavy, on or about the 29th of September you received a cancellation from Sweater Bee.

When your company receives mail, is it time-stamped in any way?

A That was not a mail, that was a Mailgram. It was a telegram.

Q When it receives something, either a telegram or a letter, do you time-stamp that in any way?

A I personally? No.

Q Does anybody?

A Western Union.

Q O. K. How many goods, or in dozens, were canceled out of that approximately one thousand dozen that were ordered?

A One thousand -- with the additional thirty dozen, it was approximately, I think, 130-some-odd dozen, 140 doze I believe it was, between.

Q 130 and 140 dozen out of that entire order --

A Yes.

Q -- were canceled. Now, the time of the cancellatio of that 130 to 140 dozen goods, the goods had already been knitted, is that correct, the yarn had been knitted into fabric?

A Not all of it. Some was still left, very little, but some was still left.

Q Dozenwise, could you give us any estimate?

A I would say ten percent, perhaps.

Q Ten percent had not yet been knitted?

A Yes.

Q So that would be approximately fourteen dozen?

A Something in there. It was a very small quantity.

Q Now, for the remaining amount that was knitted, that had already been put into production at the time that you received the cancellation, is that correct?

A What do you mean by, what do you mean "into production," what changed?

Q It had been cut, it had been sent to the machine operators and was in various stages of being completed?

A No, some of it was not cut.

Q Do you know how much was not cut?

A I can't give you -- I think the cutting books would give you a very good indication of that situation.

Q And there is another book, isn't there, where it shows the date that the yarn is knit and the date that the yarn is sent to the first operator after being cut?

A The same, the cutting book is the book that tells the operation going to the operators. We have no dated knitting book, not that I know of.

MR. WEINRICH: May we go off the record, please, for a moment?

JUDGE HERMAN: Off the record.

(A bench conference was held at this point among the Court, Mr. Scher and Mr. Weinrich.)

Q (By Mr. Weinrich) Now, you testified that some of the goods were not put into production, some of the goods were not even knitted, some of the goods were, however, in production, is that correct?

A Correct, yes, yes.

Q And those goods were subsequently completed?

A The ones that were in production, yes, were subsequently completed.

Q Do you know how many dozen that was?

A Well, I would say that the Sweater Bee -- I have now in, remaining in my plant 130-plus dozens of the finished goods on that Sweater Bee, so, obviously, they were all completed.

Q You completed the entire order and did not ship 130 of the dozens --

A Yes.

Q -- or 130 dozen of that order?

A Whatever it is, 130 to 140, whatever that remaining figure is.

Q And during what period of time were those goods completed?

A Between the day of the cutoff, I would say the completion of goods extended into sometime in November.

Q Of 1974?

A Yes.

Q Now, your company is a contract knitter, is that correct?

A On occasion, I've done, I've taken complete situations where I would pay for the yarn, too. In other words, I wouldn't do contracting, I would sell as a manufacturer, but, in general --

Q In the normal course of busines, you are a contract knitter?

A In general, in general, yes, yes.

Q Which would mean that when you receive an order, for example, from Sweater Bee, Sweater Bee will pay for the yarn?

A No, I think you -- he does not pay for the yarn until goods are shipped to him.

In other words, what happens, he bills me or memos the yarn to me. I, in turn, when I ship the goods, then that yarn is canceled, but -- well, I don't want to carry it further.

Q For goods that are not shipped, they do not pay for the yarn; is that what you are testifying to?

A Yes.

Q But for the goods that are shipped, they pay for the yarn, they pay for your labor?

A Yes.

Q The only thing that you actually purchase would be buttons and trimming?

A Correct.

Q They even pay for the boxes, don't they?

A That's also a charge-back arrangement.

Q But it's not charged back until you ship?

A Correct.

Q Now, at the time that the Sweater Bee order was canceled, it was canceled for late delivery, by the way, wasn't it?

A Yes, it was. Well, that's the, that's the statement on the telegram, so I would have to assume that. There were other reasons, I feel, that lie behind it.

Q But the asserted reason to you was late delivery?

A Correct.

Q When was the order to have been delivered?

A I believe it was August 30th. The last 200 dozen order was to be delivered 8/30/74.

Q So, is it correct that during the period up until the cancellation of this order that there was more work in your shop than the people could effectively handle?

THE WITNESS: Would you re, restate that question again?

MR. SCHER: Objection.

JUDGE HERMAN: Overruled.

MR. SCHER: Your Honor, it calls for a conclusion.

JUDGE HERMAN: All right, but I think this witness may be in a position to draw that conclusion.

THE WITNESS: May I hear the question, again, please?

(The pending question was read by the reporter.)

A I, I don't follow that question. What do you mean, effectively handle? What do you mean by effectively handle?

MR. WEINRICH: I'll try to be more specific, Mr. Harkavy.

Q (By Mr. Weinrich) You testified that this was a complicated sweater.

A It was detailed, very detailed, yes.

Q That the people you had working for you at that time, especially during the month of August and September of 1974, were a fairly new crew?

A Correct.

Q Is it correct that with the people that were present in your shop working on this sweater that they could not achieve delivery in the specified time although working a full week?

A Well, it's apparent. We were unable to effect delivery because we were not able to produce the merchandise on time.

Q So, would also be correct that up until the cancellation of that order there was enough work for everybody in that shop to work full time?

MR. SCHER: Objection, Your Honor.

JUDGE HERMAN: Overruled.

A Up till the cancellation date, there was enough work for how long?

Q (By Mr. Weinrich) Up until that date?

A Yes, there was enough work to work full time.

Q How long would it have taken to complete the 135 dozen goods that were canceled?

A Well, in conjunction with the other goods that we had in production, I would say it would take us until sometime in November.

Q Now, at the time that the Sweater Bee goods were canceled, that wasn't the end of your production run, there were still other materials, other orders that had to be produced?

A Yes.

Q Had all of those orders been knitted by the end of September, to your knowledge?

A There was a small quantity involved there, too. I'd say somewhere in the area of 75 dozen, or perhaps a hundred dozen.

What date was that you said, September?

Q I am saying, at the period when Sweater Bee canceled that last 130 to 140 dozen --

A Yes.

Q -- you had other work that was not yet produced which had to be produced to fulfill the remaining order or orders the company had?

A As of that date, a very small quantity. Everything was mostly -- was knitted.

JUDGE HERMAN: That very small quantity, you say, was 75 to 100 dozen?

THE WITNESS: Less. I thought he said September.

MR. WEINRICH: I'm talking about the end of September.

THE WITNESS: Now it's the end of September?

Q (By Mr. Weinrich) When you received cancellation.

A It was a small quantity.

Q That hadn't been knitted?

A That had not been knitted.

JUDGE HERMAN: In terms of numbers, how many dozen would you say?

THE WITNESS: It's very hard for me to say that. I would have to refresh my memory, look at either the cutting book or --

JUDGE HERMAN: You can't approximate it?

THE WITNESS: I would say in the area, it would be fifty dozen, perhaps.

Q (By Mr. Weinrich) That had not been knitted?

A Yes.

Q There were additional amounts of goods that had been knitted but had not yet been put into production, meaning that it had not yet reached the first machine operator --

A Yes, sir.

Q -- for Penrose and Spuncraft?

A Their work was knitted, yes.

Q How many dozens of goods for Penrose and Spuncraft were manufactured and shipped between October the 1st of 1974, the beginning of October, and the time that your plant closed down completely at the end of November, if you know?

A Let me start backward. Everything was shipped as of October 30th.

I believe the month of October, I testified to 250 or 260 dozen being shipped, being shipped out, so the assumptio would be that that was fin -- that was shipped -- that was finished out in that month.

Q And who would those orders have been for?

A Penrose and Spuncraft; the major part would have been to Spuncraft.

MR. WEINRICH: Let me have these marked as General Counsel's Exhibits 15-A through F, for Penrose Knitwear orders.

(The documents above-referred to were marked as General Counsel's Exhibits 15-A through 15-F for Identification.)

Q (By Mr. Weinrich) I ask you to look at these orders marked as General Counsel's 15-A through F, and ask you if these are all of the orders your company received from Penrose during the year 1974?

A Yes, I believe that's all.

Q Did you receive any telephone orders besides those?

A No, I did not.

Q All of their orders would have been written?

A Yes.

Q And the last order would be received as of June the 25th of 1974?

A Correct.

Q You can hold on to those.

Is it also correct that those orders amounted to approximately 750 dozen sweaters?

A 720 or 710. 710.

Q Do you recall when your last shipment to Penrose was made?

A It was the, either the last week in October or the second to last week.

Q Do you remember how many goods, in dozens, were shipped in the last shipment?

A It had to be in the area of 35 or 40 dozen, something like that.

Q Do you have your shipment records?

A Yes, I do.

Q With you?

MR. WEINRICH: I ask they be produced.

THE WITNESS: I have the date of 10/17, 40 dozen.

Q (By Mr. Weinrich) That was the end of --

A Of Penrose.

Q When was the last prior shipment before that?

A October 4th.

Q And how many were shipped at that time?

A 18 dozen.

Q And before that?

A On 9/20, we had twelve dozen, and 9/16, we had 36 dozen. Further -- do you want me to go further?

Q No, just let me ask you if that book contains all of your shipment orders for both Sweater Bee, Penrose and Spuncraft during the year 1974?

A Yes.

Q Including the amounts in dozens?

A Yes.

THE WITNESS: May I interject something, because it brings something to mind, to me, the fact when you say

A No.

Q -- as the Sweater Bee --

A No, Sweater Bee was a much more expensive retail garment. It was made with a cheaper fur and a cheaper yarn.

Q But the manufacture itself, the labor that went into it, was also less complex although the cost of the fur was less? Does that mean the labor was --

A Well, there is more detail, there is more attention paid to a garment made for Sweater Bee than there would be -- more detail, more critical work on it, yes.

Q Your operators were so instructed?

A Well, I think they were, yes.

Q You didn't do the instructing?

A No.

Q And the fur garments were ordered on July the 29th of 1974, is that correct?

A I thought it was August, but it's July. I said previously it was sometime late in August.

Q Is it also correct that all of your production in Spuncraft garments and all your deliveries -- let me change that to -- all your deliveries of Spuncraft garments were made during the months of August, September and October of 1974, if you recall?

A I would assume so. I would have to actually refresh my memory with the book.

I believe it was August, either late July or August we started shipping. I remember on the initial order we had difficulty obtaining the yarn. The yarn he had ordered was not available until June, late June, so we didn't start knitting the first orders until July for Spuncraft, so it must have been August, then.

Q During the month of October of 1974, is it correct that you produced in excess of 200 dozen sweaters for Spuncraft?

A During the month of October?

Q Of October 1974.

A I -- forty dozen to Penrose and another small order -- I just stated the, the October delivery schedule for Penrose. The balance was Spuncraft.

Q How many dozens were delivered, produced and delivered to Spuncraft during October of 1974?

A I think the last one, was the last shipment, was a hundred dozen, a hundred-some-odd dozen, 102, something of that nature, and there was one prior shipment, I think.

I -- may I?

Q O. K., fine.

A I can give you the exact information. (Referring to document) Approximately 200 dozen.

Q Shipped during the month of October 1974?

A Yes.

Q So, would it be correct that during the month of October 1974 work was not at a standstill in Solboro's place of business, there was work to be done?

A It was not a standstill, no.

MR. WEINRICH: Before I forget, I offer General Counsel's Exhibits 14-A through G, 15-A through F, and 16-A through D into evidence.

JUDGE HERMAN: Any objection?

MR. SCHER: No objection.

JUDGE HERMAN: They're received.

(General Counsel's Exhibits 14-A through 14-G, 15-A through 15-F and 16-A through 16-D for Identification were Received in Evidence.)

Q (By Mr. Weinrich) Now, you also had orders from Colleen Knitwear and from another company, or something to that effect, during the year 1974?

JUDGE HERMAN: Answer.

A Yes, I did.

Q (By Mr. Weinrich) Is it correct that the Colleen Knitwear order was between 350 and 400 dozen?

A I cannot give you an exact answer. I'd have to -- I don't know if I have the record with me, but that was at the very early part of the year. It was in January or February

Q Are those orders present?

A I may have some notes myself on that.

(Documents produced by Mr. Scher.)

THE WITNESS: Well, I have the shipment book here and I have the dates. If you want me to go through the invoices, I can follow it out for you.

Q (By Mr. Weinrich) You don't have the --

A I just have invoice shipped and I have the amount.

Q You don't have the amount in dozens?

A No, not on this. I have it in my shipment book.

Q That would be contained in the shipment book?

A Yes, yes.

Q Were there any others, besides from Spuncraft, Penrose, Sweater Bee, Colleen Knitwear and Bellanry, any other orders received by Solboro during 1974?

A No, I don't believe so. There may have been some sample orders for various customers. Sometimes a customer wants to see a sample and we may get a sample order billing, but there were no orders for specific merchandise to be put into production.

Q Would your sample order billing be reflected in this booklet?

A Yes.

Q The invoice booklet?

A Yes, whatever I bill, it would be in there.

Q 1974 wasn't the first year that you failed to receive re-orders during the Christmas, or leading up to the Christmas season, was it?

A No, it was not the first year I failed to receive orders.

Q You testified that the knitting machine stopping, or, for that matter, slowing down or not running as much, is the first visible sign of a slow-down in production, is that correct?

A That is correct.

Q Compared to the other procedures that are entailed in making a sweater, the Merrowing, all of the other machine operations, the pressing, through shipment, don't those operations take longer on, let's say, 200 dozen garments, than it does to knit the fabric for 200 dozen garments?

A No, I would say it's all according to the type of knitting and it's all according to the type of finishing.

In this particular case, I would say if I were finishing all fur-trimmed sweaters, yes, it would take a lot longer.

Q How long would it take to knit the fabric for 200 dozen garments?

A Well, if I were running full production, I would do it, probably, in three, three days to a week, according to the type of knitting. I can ship a similar amount per week.

Q And you could finish those 200 garments through all the other processes?

A It's all according to the type of garment. If it's a complicated garment, like a fur-trimmed garment, no. If it's a simple turtle-neck sweater or a little V cardigan, yes.

Q Isn't it correct that there is often a back-log of knitted fabric and that the fabric is held for periods of time after being knit before it's put into production?

A You will have to tell me how long a back-log. One day, ten days, three weeks, what are you referring to?

Q I am referring to garments that may have been, fabric which may have been knit in August and not put into production until October.

Does that ever happen?

A This would only happen if I would have more demanding delivery schedules on a particular item where one customer would need the merchandise more urgently than another. I might put aside some knitting for a later production schedule as far as the finishing.

Q Do you remember if certain Penrose fabrics were knit in August of 1974 and not put into production until October?

A Yes, there were some Penrose fabrics. I don't know if it was knitted in August but it was knitted earlier and not put into production until the very last month.

Q Would the same be true for Spuncraft?

A On Spuncraft, I'd say the very small amount, it was knitted in September. That wasn't finished, and through October, that wasn't finished. In October, in other words, there may have been a very small quantity that was knitted earlier that hadn't been finished for one reason or another.

Q Did your knitting machines run for the purposes of production of garments for delivery as opposed to sample garments during the month of October 1974?

A The month of October, I would say the knitting machines almost ran exclusively for the production of sample garments.

Q Where are fabrics stored before they're cut, before they are separated and before they are cut?

A We have bins that we store them in.

Q And are these fabrics then brought out to the separator on racks?

A Brought out on racks?

Q On any sort of rack?

A They are, they are stored in a bin or rack arrangement, yes.

Q Now, you testified concerning previous years and your layoffs during previous years, and there are records in evidence to show when these layoffs began, but I believe that you have testified in 1973 that your layoffs didn't begin until mid-November, is that correct, as you recall?

A '73, I believe so, yes. It's very possible early

November I started to lay off. I, I would have to refresh my memory with the book, again.

Q And is it your recollection that during that year you also suffered from a failure of certain of your customers to give you the re-orders that were so necessary to your business?

A Yes.

Q Do you have your 1973 shipping and invoice book present?

A No, I do not.

Q Does that book exist at this time or has it been destroyed?

A I don't believe I have a, I have -- on the invoices, I have invoices, shipping invoices, that I must have, yes, sir.

Q Do you have any other records present with you today which would reflect your total business for the year 1973, the amount of orders in either dozens or dollars?

A No, I have no factual evidence, no.

Q Do you have your orders for the year 1973?

A No, no, I do not. I'm sorry.

Q Do you have your production books for the year 1973?

A I have only the pay roll book for 1973.

MR. SCHER: May we go off the record for a moment?

JUDGE HERMAN: Off the record.

(Discussion off the record.)

Q (By Mr. Weinrich) Now, in 1972, you testified to a layoff, and there are documents in evidence that you were manufacturing dresses at that time, is that correct?

A The early part of '72, yes.

Q When did you switch to sweaters?

A I would say sometime in July. I was knitting some sweaters in the early part of the year, too, but, in the main, it was dresses.

Q During the year 1974, no part of your business was the manufacture of knitted dresses, was it?

A I did have one small order, I would say, in the area of about a hundred dozen.

Q What part of the year was that?

A It must have been July or August, the summer months.

Q When was that completed?

A Within that period of time.

Q Would that be reflected in your invoice records, or is that in a different --

A That's in '73. I don't have the invoice records here.

Did you ask me '73?

Q I referred my question to 1974.

A I'm sorry.

Q If I didn't --

A No, 1974, I had no dresses.

Q But in 1973, you did have an order of one hundred dozen?

A Yes.

Q Besides from employees involved in the production of sweaters during the year 1974 and especially in the period of September and October of 1974, did Solboro employ any other employees aside from production employees?

A No.

Q You had no clerical staff?

A No. Well, I contract an accountant, but I don't employ him.

Q You had no secretaries?

A No.

Q As you recall the incident, is it correct when Mr. Sciacca came to visit you on October the 4th he advised you and said he would attempt to prove that he represented either a majority of the workers or of the girls?

A The word, actual word escapes me.

Q You don't remember which of those two words he actually used?

A I believe it was "the girls."

Q But you are not certain of that, it could have been "the workers"?

A I can't state for certainty.

Q And, later that day, you spoke with all of your workers gathered around the lunch table or their luncheon table, anyway, is that correct?

A Yes, that is correct.

Q Now, you had already received your cancellation from Sweater Bee at this time, that time?

A Correct.

Q There was no longer any rush to get the Sweater Bee orders out at that time, on October the 4th?

A There was a contingency situation. We were trying to salvage our business, so it was up in the air as to whether we should follow through production or not follow through production. We were trying to regain the -- their commitment to accept the goods.

Q You didn't explain that to the people in the speech, though, you just told them the order was canceled, you didn't tell them there was a contingency?

A The contingency was only in my mind. There was no way that the company indicated that there was any plan of theirs to accept. I was only hoping.

Q You might call it wishful thinking, is that correct?

A Well, such an expensive loss, I guess you would say so.

Q And this speech took place after Mr. Sciacca came and you mentioned to the employees during the speech that you understood that they would like to be represented by the

Union?

A That some of them would like to be represented by the Union, yes.

Q So, Mr. Sciacca made himself clear as to what he wanted in the morning, is that correct, that he wanted to represent your people for the purposes of collective bargaining?

A He didn't make himself clear, no. I gathered information that made it clear.

Q You gathered information that made it clear after speaking to Mr. Sciacca?

A Well, in a sense, yes.

Q How did you gather this information?

A I walked over to the knitter and I asked him, I mentioned that a chap was in from Local 107, and he told me some of the girls signed up. I didn't ask him, I just made a statement, and he volunteered the information.

Q What did you say to him and what did he say to you?

A I said, "A fellow was in from 107, Mr. Sciacca, I believe that was his name," and he said, "It's too late, some of the girls signed up."

Q And who was this person?

A Richard Kilz.

Q What time of the day did that happen?

A It must have been about ten a. m., or so.

Q On October 4th?

A In the morning, yes.

Q Who else was present, any other employees?

A No.

Q Was your wife there at the time?

A No.

Q It was just you and Mr. Kilz?

A Correct.

Q Did he give you the names of the specific people that were interested?

A I didn't even question him.

Q About the names?

A I didn't question any further. When he said that statement, I was so depressed from the economic situation that that was it as far as I -- I didn't question him further on it.

Q And was it your opinion at that time that any additional expenses would have an adverse impact upon your company, is that correct?

A That is correct.

Q Did you consider the Union, with its health benefits and other benefits, to be another additional expense?

A I considered any further expense, whether it's Union or otherwise, would be an expense that could hurt Solboro, yes.

Q But you did bring out in your speech and told the employees that expenses would rise due to Union benefits?

A I don't recall saying expenses would rise due to Union benefits. No, I didn't say that.

Q Do you recall testifying that you brought out the fact to the employees that expenses would rise due to Union benefits, testifying to that effect here today in this room?

A I said additional expenses of the Union, if the Union, if they join the Union -- something of that nature. I don't recall the exact words.

Q Well, you testified as to a discussion that you had with your employees.

A Correct.

Q And when you testified here this morning, did you testify as to the exact words that you used during that discussion?

A Would you please re, restate that? Testify to the exact words?

Q Did you testify here today as to what you said?

A The exact words? To the best of my recollection, recollection, yes, that's what I said.

Q You said that you told the employees that the company had just lost $15,000?

A Just lost, but it was a report that the year, fiscal year resulted in a loss of $15,000.

Q Whom did you receive that report from?

A My accountant.

Q $15,000, what did that loss represent, $15,000?

A In the red.

Q Of what?

A $15,000 in the red.

Q When did your fiscal year end?

A September 30th.

Q So, is it your testimony that as of the fiscal year ending September 30th, not only didn't Solboro make a profit but you, in fact, lost $15,000?

A I would say that we elected to take a salary cut to minimize Solboro's losses.

Q Well, did your accountant give you anything? Did he give you a profit and loss statement that showed that $15,000 loss?

THE WITNESS: May I speak to counsel on that, Your Honor?

JUDGE HERMAN: Can you answer the question?

THE WITNESS: He did give me, yes, he gave me a statement.

Q (By Mr. Weinrich) Do you have that statement with you?

JUDGE HERMAN: Don't you know?

THE WITNESS: Well, I don't know if they brought it.

MR. SCHER: No, Your Honor, I'm sure that we can -- I would have no problem supplying for the record the accountant's statement for the fiscal year ending September 30, showing the report that Mr. Harkavy testified to.

MR. WEINRICH: When you are prepared to produce it, I would like to see it.

MR. HERMAN: Well --

MR. SCHER: Well, I assume you won't want to keep the hearing open for that.

I can submit it, and you can identify now, if you will, ask Mr. Harkavy whether it's a profit and loss statement, balance sheet, extract, or whatever it was, so it could be identified so we can be more specific what it is, or was it a letter from the accountant.

Whatever documentation it was that he received from the accountant evidencing that the company was in the red by $15,000 at the close of the fiscal year on September 30, 1974, we'll be happy to produce and make a part of the record.

Q (By Mr. Weinrich) Did you receive a document or did you receive a telephone call?

A I received both.

Q As of October 4th, had you yet received the document or had you only received a telephone call?

A No, I hadn't received the document as of October; just a tel -- just a conversation. I think the accountant was out to visit me at the end of September, as we went over, more or less, the general financial statement, you know, for the year.

Q What type of document did you subsequently receive?

A A profit and loss statement, but that's where we elected to take a, a salary cut rather than put the loss into Solboro.

Q When did you elect to take this salary cut?

A At that, at that time.

Q Upon the receipt of the document?

A At the discussion, at the time of the discussion.

JUDGE HERMAN: Are you saying, then, that the document will not reflect that loss?

THE WITNESS: The document does not reflect the loss to Solboro per se, but it will reflect our salary cut in order to minimize that loss.

Q (By Mr. Weinrich) Is it correct that you ended your statement on October 4th by informing the employees that you don't know how "we can survive the added economic expenses"?

A I said we don't know how -- I don't know how Solboro can survive an added economic expenses.

Q Which added economic expenses was that? Did you tell them which added economic expenses you couldn't survive?

A We're talking about general price. Wages will be rising, all the costs of the -- I didn't specifically denote those particular aspects of it, but in my mind.

Q You denoted the Union was one of those expenses?

A No, I didn't. At the end of the statement, I don't believe I said that.

Q You started out the statement by saying the Union was an added economic expense?

A I don't recall that statement. I believe the gist of my speech was just to make them aware of the economic conditions of the country and Solboro and the knitwear industry.

Q Let's do it this way, Mr. Harkavy: I would like you to again state, as best you recall it -- not the gist of the speech, not what you had in your mind, but what you recall saying to your employees on October the 4th, as best as you recall it, the way you said it.

A I stated that I understood some of the girls wanted to be represented by the Union, and I went -- I'd like to make them aware of the economic situation.

I brought out the fact that the buyers are running to Hong Kong in droves, that the depressed state of sales in department stores was having a very bad effect on orders. We hadn't received any new orders, we had received cancellations of the old orders.

Q Do you have any cancellations you received -- I'm sorry -- continue.

JUDGE HERMAN: Yes, continue. Go on, finish.

MR. WEINRICH: I'm sorry for interrupting.

A (Continuing) And that they were free to vote in any way they want, but to please take those factors into consideration.

I did state, "This is America. You can -- you are free to vote any way you like."

Q (By Mr. Weinrich) So, is it now your testimony that you did not say that expenses would rise due to Union benefits?

A I honestly cannot recollect that phrase. I may, I may not have used it.

Q Do you recollect saying that you didn't see how Solboro could survive if the economic situation continued?

A Continued, yes, I do recollect that, yes.

Q What did you say about it being their decision? What did you say about it being their decision?

A They can vote any way they like.

MR. WEINRICH: I have no further questions.

JUDGE HERMAN: Do you have anything, Mr. Kushner?

MR. KUSHNER: I have no questions.

JUDGE HERMAN: Any redirect, Mr. Scher?

MR. SCHER: Yes.

MR. WEINRICH: I'm sorry. I'd like to offer the invoice book, if I may.

MR. SCHER: No objection.

JUDGE HERMAN: I don't think that's been marked yet.

MR. WEINRICH: No, I'd like to have it marked and offer it.

JUDGE HERMAN: That will be General Counsel's 17. That's the shipping book.

(The document above-referred to was deemed marked General Counsel's Exhibit 17 for Identification.)

JUDGE HERMAN: Did you have any comment in reply to Mr. Scher's offer of the profit and loss statement?

MR. WEINRICH: I would like to see it and I would like to reserve a number for it, possibly at the close of the case.

Without seeing it now, I can't agree whether I am going to offer it or not. I can't make that decision on something I haven't seen.

JUDGE HERMAN: Then we'll just forget about the offer.

Exhibit 17 is received in evidence without objection.

(General Counsel's Exhibit 17 for Identification was Received in Evidence.)

JUDGE HERMAN: All right, Mr. Scher.

REDIRECT EXAMINATION

Q (By Mr. Scher) Mr. Harkavy, once the sweater cancellation was received by you, what effect did that have on production deadlines and shipments as far as Solboro was concerned?

A The only other deadline I had was for Spuncraft, which was a verbal deadline of October 30th, which I met.

Q Was there any remaining pressure as far as production work that continued on Sweater Bee sweaters?

A There was no pressure whatsoever.

Q Did this have an effect upon the type of personnel that the company could employ to finish up on the Sweater Bee work?

A Yes.

Q What effect did it have?

A Well, in the first place, I could diminish the number of employees working on that particular merchandise. There was no need to have full employment on it.

Q What about the skill? Was there any effect upon the skill needed?

A Well, various employees of the company do several jobs or several operations. The older hands, in particular the older employees, and they could be delegated to do multi-operations on the same goods. That's the way it would affect it, so I didn't have to have a full employment to finish.

I could have my older employees finish up whatever goods I had by doing multi-operations.

Q Is that, in fact, what did happen after the cancellation of the Sweater Bee order?

A Yes, it did.

Q Can you give us some examples of that?

A Yes. Ana Nemec, for instance, could operate a blind-stitch machine, the label machine, the fur machine, the Singer machine. She -- the Mauser machine, Singer Machine. Carmen Gonzalez could operate the Mauser machine, Singer machine, blind-stitch machine and fur machine. Joyce Brown could operate several machines; the button, buttonhole, I believe the label machine. I'm not sure if she's label machine --

Q Is that, in fact, what did happen?

A Yes.

Q After the cancellation of Sweater Bee?

A That's exactly what happened.

Q Did I understand you to say that some 140 dozen that were completed between the time of the cancellation and the end of November are still in the plant now?

A That is correct. There's other goods, too, that's still in the plant, sample goods I made up and had no luck with, also in extensive amounts.

Q Mr. Harkavy, I'd like to ask you, with reference to the pay roll in 1974, prior to October 4, when the pay roll book indicates and the parties have stipulated that on October 4 thirteen people were employed other than yourself and Mrs. Harkavy by the corporation, has the number of people employed by the company or did the number of people employed by the company prior to October 4th vary in terms of how many?

A Well, we had a slight variation because we had a very large turnover, so sometimes we had to hire two or three extra people in order to, you know, get the, get the work produced, because they were all inexperienced, but, in general, I would say within that area of thirteen to fifteen people.

Q There were people who were working for you in the week of October 4 who had not worked for the previous week.

Was the turnover that dynamic?

MR. WEINRICH: Your Honor, I think the records are in evidence and they will speak for themselves on this point. They show that very clearly, unless there is some other purpose.

JUDGE HERMAN: I sustain the objection, as unnecessary.

Q (By Mr. Scher) You testified you had a conversation with your accountant during the last week of September in preparation for his submission to you of a year-end financial report.

During those conversations in that meeting with him, was it then you were advised that the company would sustain a $15,000 loss?

A Yes.

Q And was there some discussion at that time about avoiding a financial document that showed that loss by cutting some other expense in time for it to show up in the year-end report?

A Yes, there was a discussion.

Q What expense of the corporation was decided to be cut?

A My salary and Rita Harkavy's salary.

Q In what amount each?

A The sum was to total about $15,000, but the designated amounts, we didn't decide at that point.

Q Did you subsequently?

A We assumed that it would be equal.

Q But the aggregate was to be $15,000 --

A Yes.

Q -- in salary cut?

A Correct.

Q Did that, in fact, happen?

A It was either fifteen or plus. I can't recall exactly.

Q Either fifteen or something more than fifteen?

A Yes.

MR. SCHER: No further questions.

JUDGE HERMAN: Anything relating to the redirect?

RECROSS EXAMINATION

Q (By Mr. Weinrich) You testified on redirect that there were sample goods also left in the inventory?

A Yes.

Q In what amount?

A I would say about 75 dozen.

Q Of how many different sample lines?

A About four.

Q And these were lines that you had been unable to sell that year?

A Correct. I was hoping even to sell them as, per se, in the small quantity of each lot, but I had no luck there, either.

Q From year to year, do you keep a record of goods that are left over at the end of the year, an inventory record?

A Well, I have, I have yet to run into this situation. This is the first time it happened to me.

Q This is the first time you have ever had any goods left over at the end of the year?

A Yes. I've never had a cancellation or goods not sold. Whatever I made, I sold.

Q Including sample goods?

A Well, not to that extent. I would have sample goods, two, three or four dozen, something like that, a small quantity.

Q Had you produced more samples this year than you did last year?

A I did produce more samples, yes; hoped to generate business, yes.

Q Now, in past years, there have been goods that have been left over that you haven't sold to your regular customers and that you have had to sell to wholesalers known as "undertakers," is that correct?

A Yes, there has been goods, yes.

Q So this isn't the first year that your regular customers haven't bought up all the goods that you manufactured?

A Oh, I only manufacture to order, so they do buy the goods I manufacture. This is the first year that I attempted to make some additional sample goods in hopes of selling it and was left with that quantity.

Q In past years what have you sold to wholesalers known as "undertakers" if your regular customers have bought all the goods you manufactured?

A I would say, in general, the average of three to five or seven dozen.

Q Where did you get these goods from?

A Well, this is goods that more or less are left over. Sometimes we run a lot and we don't ship to the enth degree. We're running a little over the deadline, so we keep a dozen for ourselves, since I'm charged for the yarn and I don't receive labor on it, so it becomes my goods.

Q Who orders the amount of yarn?

A The customer.

Q But if they order too much yarn, then you pay for it; is that what you're saying?

A If they order in excess for the yarn, then that yarn remains as their yarn, as inventory, and it goes into the following year or have it reshipped to another contractor for their further use, but if I complete an order that's specified on the amount of yarn they shipped me, even though they ship an overage, the balance, the overage, that remains with them.

I'm just responsible for the amount of yarn that goes into the amount of goods. If you look at the order you will see there is a certain amount of poundage that refers to the dozens, and that figures out to amounts of poundage they sent me.

Q Under what circumstances do you pay for the yarn that isn't used?

A Well, there was a circumstance here when I had an absolute cancellation. I've never had that happen.

Q This is the first time that you've ever paid for the yarn?

A Correct.

Q And you still have 130 to 140 dozen of those sweaters left?

A Yes, I do.

MR. WEINRICH: No further questions.

JUDGE HERMAN: Mr. Kushner?

MR. KUSHNER: I have no questions.

JUDGE HERMAN: Mr. Scher?

MR. SCHER: Just one last question, Mr. Harkavy.

FURTHER REDIRECT EXAMINATION

Q (By Mr. Scher) All during the period, was it your hope, with the materials that you were left with beyond the Sweater Bee cancellation, the same as it was with the samples, that you would try to sell it or do something with it?

A Yes, I did try to sell it, but the "undertakers" were, were offering such depressed prices, that it was absolutely just ridiculous. I'd rather give it to charity.

MR. SCHER: No further questions.

JUDGE HERMAN: Mr. Weinrich?

MR. WEINRICH: Nothing, Your Honor.

JUDGE HERMAN: Mr. Kushner?

MR. KUSHNER: No questions, Your Honor.

Afternoon Session (1:55 P.M.)

JUDGE HERMAN: On the record.

MR. SCHER: We'd like to enter into a stipulation as to the date of hire of the various people involved, the various employees involved in this case, as well as the date they last worked for the company.

The records indicate that with respect to employee Zimmerman, he began employment August 9, 1974 and last worked October 25, 1974.

JUDGE HERMAN: Are we going to go through this now, all thirteen people? Can't you get something up in writing?

MR. WEINRICH: Yes, before the end, I'll write it up.

MR. SCHER: O. K.

JUDGE HERMAN: Will you call your next witness, Mr. Scher?

MR. SCHER: Yes. I call Mrs. Harkavy.

Incidentally, I would like to correct the record. At the beginning of today's session, I indicated in calling Mr. Harkavy he was the second witness for Respondent.

I would like to correct the record to indicate he was the third witness for Respondent, and this is the fourth witness for Respondent.

RITA HARKAVY

was called as a witness by and on behalf of the Respondent, having been first duly sworn, was examined and testified as follows:

JUDGE HERMAN: Be seated. State your name and address.

THE WITNESS: Rita Harkavy, 108 Keuswick Drive, East Islip.

DIRECT EXAMINATION

Q (By Mr. Scher) Mrs. Harkavy, will you tell us what position you hold with Solboro Knitting Corp.?

A I'm Secretary-Treasurer.

Q And for how long have you held that position with the company?

A Since January '65.

Q Prior to that, what position did you hold?

A As director.

Q And how long have you been serving the corporation in one capacity or another?

A Since 1965, I believe, or '66.

Q And during that period of time, over these years, have you been intimately connected with the operations of the company?

A Yes.

Q Including all aspects of production?

A Yes.

Q Would you tell us, in the main, what your duties and responsibilities and functions are with respect to the general operations of the company?

A I design, I instruct, I direct, and, in complete full production, anything from beginning to the end, from knitting to the finished product.

Q Do you administer the personnel aspects of the company; that is, relationships with employees?

A Yes, I do.

Q Do you hire --

A Yes, I do.

Q -- personnel?

A Yes, I do.

Q Do you determine their qualifications in terms of what they are able to do or not able to do?

A Yes, I do.

Q In production.

I would like to ask you to focus on the period in 1974, with particular reference to the months of September and October, and tell us, if you would, what was the production situation in the company at that time.

A 1974, what month?

Q September and October.

A September and October, September, I believe, Mr. Harkavy already testified to that or --

JUDGE HERMAN: No, you just tell us.

THE WITNESS: You want me to --

JUDGE HERMAN: You answer.

THE WITNESS: All right.

A (Continuing) September was -- we were, again, we were referring to Sweater Bee orders we were working on, which was the middle of September.

They were, I would say at that time -- well, I'm quite uncertain of your particular question, you know, what you are trying to phrase. I'm not certain what you are driving at.

Q (By Mr. Scher) All right, how many knitting machines did the company have?

A Four, which means major machines, major knitting machines.

Q Can you recall a time in September when fewer than the full four machines were in operation?

A Certainly.

Q When did the machines begin to taper down or stop running?

A I would say approximately the middle of September, which would be a tapering down, diminishing of knitting.

Q How many machines stopped working at that time, if any?

A If -- I would say usually would be anywheres from --

Q No, no, Mrs. Harkavy --

A I'm sorry.

Q I want to ask you from your knowledge.

A Yes, only from my knowledge..

Q You began to couch your answers in terms of "I would say usually," which is not going to be responsive to my question.

A O. K.

Q In other words, during the month of September, what happened, specifically, and as best as you can remember it, to the knitting machines as far as production is concerned?

You had four, you testified, altogether, in the company. What happened with respect to the knitting machines in September of 1974?

A I would say that 19 -- September 19 -- that -- the beginning of September, the early part of September, there were two or three running. Towards the end, only one which was only September.

Q Now, from your experience in the production flow, what is the lag or the hiatus period between the time that knitting machines stop knitting goods and the time that it has an effect on production?

A Well, that would depend on the backlog, but the backlog can range anywheres from two weeks, a week, three days, one day. Sometimes we will take production from the machines the next day. Sometimes it will take two weeks, sometimes it will take ten weeks, sometimes a week.

It will greatly depend on initial orders, yarn being received, when it goes to the machine, and, therefore --

Q Can you recall the situation in September of 1974 as far as backlog is concerned?

A Very little. Yes, there was some backlog, but very little.

Q Can you recall the situation regarding backlog in 1973 as a comparison?

A Comparison to September?

Q September of '73 as compared to September of '74.

A That would be almost impossible unless I would check the record. I don't recall. I cannot recall that date.

Q In September of 1974, you testified there was little backlog. In that kind of a situation, what is the approximate period of time that passes before shutting down of knitting machines has a substantial impact on production?

A Would you repeat that question?

Q What is the period of time that would then go by where there is a small backlog --

A Yes.

Q -- between the time that the knitting machine gets shut down and it has an impact on production? How much time would have to go by?

A I still don't follow what you're asking. You're asking me what is the impact?

Q No, what period of time would have to go by --

A Yes.

Q -- before shutting down of knitting machines would affect how much production work there is to do?

A Knitting machines are only shut down when there is no orders. We do not shut down knitting machines for the purpose of just because there is a backlog.

We are optimistic that the machines will continually run.

JUDGE HERMAN: That is not responsive to the question.

THE WITNESS: Well, I --

Q (By Mr. Scher) You testified that there was no backlog to speak of in September.

A Nothing, nothing to speak of compared to some other seasons which we have a larger backlog.

Q Now, in that situation, September of '74, you also testified that in the beginning of September you thought one, maybe two machines, were shut down, and by the end there was only one knitting machine left in production.

From the time that knitting machines began to shut down in September of 1974, how long, then, would it take before this showed up in production?

A In production in itself? Again, it would be a question of two, two-and-a-half weeks, three weeks, depending on people we're dealing with.

Now, we were dealing with inexperienced people, so it took a little longer. Under normal conditions, under normal circumstances, with experienced help, this would have been cut down even to less time than what we had at this time of the year, which is September and October, plus whatever finishing part was taking place in November.

Q Now, what was the one knitting machine doing then at the end of September?

A Very, very little backlog, which was a few, maybe twenty-five, thirty or thirty-five dozen goods, plus samples only.

MR. WEINRICH: Excuse me --

Q (By Mr. Scher) Samples that you were designing?

A Yes.

MR. WEINRICH: Could you read back that next to the last answer?

(The reporter read from the record.)

MR. WEINRICH: Thank you.

Q (By Mr. Scher) You're familiar with it, are you not, with the company's practice as far as notifying the employees --

A Yes, sir.

Q -- when they're going to be laid off?

A Yes, I am.

Q Could you tell us what the company's experience and practice is as far as that's concerned?

A Well, I have to go back. Our company's experience, we had people up till 1974, and I would say approximately anywheres from the beginning -- the end of June, the beginning of July, which we had an enormous turnover of new people.

Up to that point, we had all experienced people who have been with us anywheres from twenty-seven years down to the last one, which was an -- which was for six years. They were all experienced with Solboro all these years, from sixteen, eighteen, twenty years, and so on, so --

Q In each case when you lay off people, what's your practice?

A Well, the practice, all these people who were with us that many years, they did not need to be told every action and every move what is taking place. The place is physically open for everyone to see. The place is --

Q All right --

A May I answer?

Q Do you personally notify an employee when she or he is to be laid off?

A Yes, I do. What I would like to clarify, my statement, if you will permit me to do so, every person who is experienced in our organization was aware when that machine, knitting machine stopped, whether -- that it was a question of whether it will be two weeks' work, a week-and-a-half's work, three weeks' work, ten days or two days' work.

Q Now, you notified the people yourself?

A Personally, they would know themselves there is another day's work left or this is the end.

MR. WEINRICH: Object.

JUDGE HERMAN: Sustained. Motion to strike is granted.

You can't tell what other people knew. All you can do is say what the facts are, and if those facts indicate that somebody knew something, then that's an inference that somebody else has to draw, but you can't testify to that.

You can only testify to facts within your own knowledge.

THE WITNESS: My own knowledge is -- that would be my own knowledge. Secondly --

JUDGE HERMAN: No, it's not your knowledge.

THE WITNESS: I would have to argue that.

JUDGE HERMAN: No. Listen. Don't you argue with me at all. You just answer the questions that counsel puts to you and don't bring in any extraneous matter, and when I tell you that we won't accept certain answers, you can accept that as fact.

THE WITNESS: I will accept that very graciously.

JUDGE HERMAN: Don't tell me how you are going to accept it. You will just accept it.

Now, proceed, Mr. Scher.

Q (By Mr. Scher) Now, over the years, has it always been you that notifies an employee that he or she is laid off?

A Over the years?

Q Is it you who notifies the employees?

A Yes, I do.

Q What is your practice as far as notice to them? In other words, how do you accomplish a layoff, what do you do?

A When a lot or a particular person is finished on a particular style or design or machine, depending what they're doing, and that is the last function of that product, that person is told, "This is the end."

Now, that could be the first thing in the morning, it could be the last lot, it could be the night before. "I will have perhaps another six hours, perhaps another four hours for you tomorrow," or whatever the hours may be. Now, this is how it's done.

Q Do you recollect layoffs at the company prior to the fall of 1974; that is, in either the spring of '74 or going back to 1973 and even as far back as 1972?

A Yes, I do.

Q Can you tell us, have there been layoffs in either 1972 or 1973 in the fall which were different from the layoffs that took place in 1974?

A I don't believe so. I think Solboro's practice has been, through the past, I would say, four, five years, that I can recollect, there has been a constant layoff.

Now, that would mean spring, it would be late fall. We're a seasonal business and it has been happening.

Q And what are the factors that determine the need for a layoff at Solboro?

A What are the factors that determine? Design, a line is designed. Sometimes the line is not bought, sometimes it does not sell well. Sometimes, depending on the customer, that it is too late.

We have to go into a line which would be a holiday line or a spring line, which would determine, because our lengthiest line is usually their fall season line, and it will start anywheres from mid-April, sometimes, if you will notice, end of April, beginning of May, that will greatly determine how the buyers are buying, how the retail buyers are buying, and will flow through, usually, until November 15, which is normally -- it is a practice in the industry, accepted practice, November 15th to be the deadline for shipping for that line.

But, prior to that, we do design a line which could be anywheres in September, late August, starting late August, September, for the holiday line. Now, that will be, that will go to production after November. That could start anywheres sometimes in December, sometimes in early January.

Now, if that line is not sold, therefore we do not have production for December, January, sometimes February. That -- there is where it affects our, our line.

Q All right, now, with particular reference to 1974, did there come a time in September when you knew that a layoff was coming up?

A Correct.

Q Can you tell us what factors were available to you that led you to form the belief or come to the knowledge that you would have to have a layoff?

A Well, the factors were, first, we had a cancellation, which was a big factor, it was a major factor.

Q Which cancellation are you talking about?

A Sweater Bee.

Q Was there any activity with respect to any other orders earlier in the month that played a part in the scheduling of layoffs by you?

A Was there?

Q There has already been testimony that the cancellation that you just testified to took place at the end of September.

Were there any other things that you had knowledge of regarding orders earlier that month that played a part in --

A Yes, they did. I have designed a line for Sweater Bee which affected the future line, which would be the holiday line. Therefore, that line was not even purchased nor ordered, nor, therefore, it just fell right through and that's why we had no work up to date.

Q Did you play any role in the decision to shut down knitting machines earlier in September?

A Would I play any role?

Q Yes.

A No.

Q Did you participate in the decision of shutting down the knitting machines earlier in September, even before the cancellation of the Sweater Bee order?

A No, we do not -- we are optimistic from day to day that can -- orders will come and that machines should not be shut down. That is our hope. Machines shut down, there is no work for anyone.

Q Who made the decision earlier in September to start shutting down the knitting machines?

A The cancellation itself spoke for themselves, as we had no future orders, so that we had to take that into effect.

Q That was the end of September?

A Correct.

Q You testified that in the beginning of September there was one, maybe two knitting machines that were shut down, by the middle of September there were two or three knitting machines shut down, by the end of September only one machine was running.

JUDGE HERMAN: I didn't get that. That testimony does not exactly restate what the witness said.

MR. SCHER: I understand.

Q (By Mr. Scher) What was happening during September, that you were aware of, that was affecting production?

A During September, what was affecting production, we had quite a few people who were inexperienced in our field. It took a great deal of time to train them, which I do train them, and, therefore, they were not competent and capable of producing that merchandise, which was quite intricate -- it was highly styled -- and were not capable of producing the merchandise that we would, we were able to ship it. Therefore, we were late in shipping.

Q Now, was one of the results of that, that production was falling off?

MR. WEINRICH: Objection.

JUDGE HERMAN: Sustained. Don't lead the witness.

Q (By Mr. Scher) Were you receiving, was the company, to your knowledge, receiving orders, new orders, during the month of September?

A No.

Q Was the company being visited by buyers during the month of September?

A When you say "buyers," production men, production men, yes. They came to put a little pressure on us in delivering the merchandise.

Q Were they coming to place new orders?

A No.

Q Now, when you lay off personnel, as you did in the fall of 1974, is there a company policy that you follow with respect to who gets laid off, who doesn't get laid off?

A Company policy, as a rule, is that senior workers stay on longer, but there is also -- with the exception that, pertaining to their competence and ability to work on more of the various styles, various machines, and, therefore, some not necessarily because of seniority but also because of their ability to handle more than one particular operation or one particular machine or one particular -- whatever is essential to the work.

Q What is the relationship between the number of operations that an employee could do and their staying on and not being laid off?

A What is -- to give you an example, Ana Nemec is competent to -- in every phase of the operation in our plant. She's been with us six years and she started as a floor girl, worked her way up to every, to practically every refinement of the machine.

She understands when I give her any particular design, any particular operation. She just competently performs.

Q In the situation that happened at Solboro during October, after certain people were laid off, what happened in the shop with regard to continuing to work on materials that were going to be shipped out later in the month?

How was that handled despite the fact that people were laid off?

A First, the cancellation had an enormous effect on it. There was no longer this enormous rush to rush it out. It was not going any place, number one.

Number two, there was a reduction -- already there was no orders coming in. Therefore, we asked, as the newer was hired, each one -- and not necessarily newer, all depending on the operation, who does what, is laid off first.

Now, that does not mean a person can be with us ten years, but if she does only one, one particular operation -- to give you an example, is Donna Moravec, who separates. That is the first operation coming from the machine. Therefore, she -- may I explain what it means, separating?

JUDGE HERMAN: Go ahead.

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A (Continuing) Because you heard so much terminology here, I will explain -- I will give someone an education what it means.

She pulls the string which separates the nylon between two -- we call it bodies, two pieces of fabric. It is knitted to a specific size or style, which is a measurement -- now, for argument's sake, let's take 25-inch measurement. She will pull the string out. This is the first operation after knitting.

Now, she pulls the string out. Now, whether she would be with us ten years, she was with us two months, or whatever time she was with us, she would be the first one to lay off because she did nothing else but this, with the exception of very menial work pertaining -- if there was not enough to keep her going for the rest of the day, I would give her some menial work to fill in the day. So, she would be one of the first to be laid off.

Q (By Mr. Scher) Now, what was the production situati after this Sweater Bee order was canceled at the end of September?

A Diminishing. Of course, there was no need to rush to go through it, so we were working at our own pace. Therefore, I had to protect my senior workers and had them work on it.

There was nothing coming in. There were no further orders for the future that we hoped for. The spring was no longer in existence; no one bought it.

Therefore, my decision is to keep the older ones working and the newer ones who are inexperienced, that meant even training them for certain operations, to let these go, so they can have a full day's work.

Q Do you recall the order in which you laid off each of the employees who was employed by you at the end of September?

A I would have to think in style terms, and I hope I am going to answer this correctly, because that's how I would have to lay them off, what style and how they worked on it.

Q If you feel that your memory is not accurate, there is in evidence the pay roll record for the year 1974.

MR. SCHER: Your Honor, I don't think that there would be any objection to her serving the record with the accuracy that this would serve; do you?

MR. WEINRICH: Well, I do.

JUDGE HERMAN: Yes, I think she ought to try to do it from memory, and then, to the extent she can't remember, refresh her recollection.

Q (By Mr. Scher) All right, would you -- I would like to ask you now, beginning with the first person that you laid off after the Sweater Bee cancellation, to identify the employee, to tell us what that employee was engaged in at the time of her layoff, and if it was more than one operation, identify that for us, and tell us the basis of your decision to lay that person off at that time as compared to some later time or some earlier time.

A Sure. In other words, you want me to go through --

Q Take it chronologically.

A Chronologically?

Q Right.

A The first one would have to be Donna Moravec, which she does separating, and, as I just stated a few seconds ago, various minor functions that she is just capable of doing, and that is helping out more or less clipping or trimming threads, if no one else -- if I have nothing else for her.

Q And --

A That is her total competence of doing. It took months to train her even for that.

Q And she was the first employee?

A She was the first employee. Now, I'd like to add something to this.

Due to my neglect and not anyone else's, I believe that it was, if I'm correct on that date, it would be the day that I have laid her off. Now, I'm not certain on the date in particular, whether it was the 8th or the 9th, but whatever date that was, it was my neglect the night before.

Normally, if it is only an hour's work to be done in the plant, I will notify that person that evening not to appear, because it does not pay to appear for an hour, and I will not drag anyone in for an hour to work.

It was my negligence, and when she had come in there was no more than one hour's work for her to do on that separating. She, nine o'clock in the morning, she came to me. She says, "What should I do?" And, with that, I turned -- "I regret, but I don't know. Why don't you walk over and help some of these girls till noon?"

And, with that, she did help, I believe, Millie Cacaperdo. I asked her to straighten out cottons which we have in stock in the shelves. I was just trying to make it as much as possible, because I know she has no transportation. She has someone who drives her, and the person who is driving her would not be in, would not be home till noon.

I had offered her a taxi. I offered her money to take a taxi. With that, she accepted the money, but noontime, she ate lunch, I believe, with the girls, and she came back and she said, "No, I changed my mind. Thank you for the money, but I'm able to get a ride. Would you try my" -- the person. She gave me the phone number.

Q O. K. --

JUDGE HERMAN: Mrs. Harkavy, we're getting outside the field of the question. Try to confine yourself to answering the question.

Now, in connection with that, Mr. Scher asked you to start out naming the first person.

THE WITNESS: Which she was, yes, she's the first person.

JUDGE HERMAN: All right.

Q (By Mr. Scher) Didn't you lay someone off on October 4th?

A No, no. That's what I said. I must go by what happens, how each person works.

Q All right, Mrs. Harkavy, perhaps the difficulty here is my using a technical term and that I have thrown you off.

Do you recall the last day of work for an employee named Margaret Passannante?

A Yes.

Q What date was that?

A That was Thursday. That was a Thursday, yes, that was before the 3rd, I believe, Thursday the 3rd.

Q That was October 3rd. Now, would you describe how her work came to a close, even if you wouldn't put it in the same category of telling an employee to go home, which is what --

MR. WEINRICH: Objection.

MR. SCHER: All right, would you describe --

JUDGE HERMAN: When you said a while ago that Mrs. Moravec was the first one you laid off, are you changing your mind about that now?

THE WITNESS: No, no, I'm not changing my mind. I would like to answer the counsel. Actually, that he asked me this question, which has absolutely nothing to do with Moravec. She is one of the first to be laid off, as far as I am concerned.

Mrs. Passamante, when I hired her, was, I would say, was with us two or three weeks. I'm uncertain. Approximately three weeks, and I hired her on the basis, on a part-time basis.

She said, she told me she was on Social Security, she had earned X amount of dollars already, that she would just like -- she lives very close by to us, she would like a fill-in. I was delighted to hear that, because I did not have much work for her, but since she had stated this is the only way she would like to work, I said, "Well, I will try you, try you out, see what you can do, and, for the future, when we have, do have more work, I will be glad to have you on the same basis as a fill-in."

Now, she worked for us, as I say, two or three weeks. The third was her finish. Whatever she had to complete, it was completed.

My arrangement with her was, "Do call me on Friday.

I will tell you whether I will have for you work for Monday or Tuesday, and see what we can do."

As a matter of fact, in those three weeks' time, she was, as specifically stated, the Singer operator, or she may have used the word -- there is another word for it. We use Singer -- single needle, single needle opoerator, experienced for many, many years; excellent operator, and I had, in the three weeks' time I did not have enough work for her, so I placed her on another machine to see if I could fill in, because I was so satisfied with her work, and would have liked to keep her, and it was not a question of laying her off at that time.

It was a question she wanted -- she saw herself the work was finished. There was nothing for her to do. "May I take off," and, with that to confirm it with me is -- if she should return and when to return.

Q All right, then, the first person who was in a continuous state of employment that you laid off and told not to come any further --

A Was Donna.

Q -- was Donna Moravec?

A Correct.

Q Who was the second employee?

A Would have to be, I believe, working -- if you give me two seconds, I'll think of his title, how they were working, and then I'll answer, I hope.

It would be, it would have to be Mary White.

Q What was Mary White working at and --

A May I go into that?

Q Yes.

A Mary White, I believe, was with us about --

MR. KUSHNER: Objection.

A -- four weeks.

MR. KUSHNER: I think it's unresponsive. I would like to have the witness answer questions and answer them as asked by counsel instead of engaging in these long monologues.

JUDGE HERMAN: She's been asked to explain the circumstances that caused the witness to lay that particular person off at that particular time, and, so far, I haven't heard anything in response to this question that is not responsive.

Go on.

THE WITNESS: I'm sorry. Would you ask me the question?

MR. SCHER: Go ahead.

THE WITNESS: I'm sorry, but --

JUDGE HERMAN: Tell us about the circumstances.

THE WITNESS: The circumstances?

JUDGE HERMAN: What made you decide to lay Mary White off at that time?

THE WITNESS: O. K. Mary White had come as an experienced operator on the Mauser to me. This is how she presented herself in her interview.

I interviewed her, tried her the first day on the Merrow machine, which is the most complicated machine in our plant. She was not capable of handling the machine.

With that, I had tried her, and I believe she herself, who has testified that she worked on three or four machines, perhaps even more, and usually a person, when you train a person as experienced as they are, you keep them on one particular machine if they show a certain talent towards it or a certain ability towards it, a certain control.

I do not move a person from machine to machine, a beginner. Now, a person can be experienced in a plant for many years. To my operation, to my needs, which suits me, I would need to have her on a little longer in order for me to see that she will perform on that machine.

Mary White could not perform on that machine. I let her stay, I believe, for a day, just giving her practicall just rags just to practice and practice. She had no control over the machine. She had never learned that machine. She never knew the machine.

Therefore, I did not -- I took Mary White off, put her on a less -- simpler machine. With that, Mary White did not perform well on the second machine. I put her on the third machine. From the third machine, I moved her to the two final machines, which were, I would say, any man in this, in this room, could learn in five minutes how to operate.

Mary White worked on those two machines up to the last day.

Q (By Mr. Scher) All right, now, what were the circumstances surrounding her --

A Those circumstances, she was putting on borders which were on the Sweater Bee orders. Those orders were canceled. It was the last order that she put on.

Mary White had -- every single day I had to repair -- and I'm sure you have heard the testimony here --

MR. WEINRICH: Objection.

THE WITNESS: I'm sorry. O. K. I will --

JUDGE HERMAN: Just tell us the facts. Don't tell us what we heard here. We know what we heard here.

THE WITNESS: O. K.

A (Continuing) She -- I would have to repair daily from her work what she performed on that machine, so, therefore, I put her on the label machine, which is on the last day of work.

She worked on that machine, I would say, approximately, anywheres from four to six hours for that day, and I sat on the Mauser machine where, a day prior, I was fixing all the work she ruined the day before -- that was more or less the end of the order and end of whatever had to be taken care of on that particular machine.

Q And you laid her off that day at the end of that run?

A That -- correct.

JUDGE HERMAN: Now --

MR. SCHER: Incidentally --

JUDGE HERMAN: -- the evidence that we'd had here for today indicated that Mary White was laid off at the end of the work day on the 7th of October.

THE WITNESS: Your Honor, dates are very --

JUDGE HERMAN: And that would appear to be a date a day earlier than Moravec was laid off. Now --

THE WITNESS: I honestly, if I try to pin -- dates don't mean anything to me as far as specific dates. Pin me down to dates, I would say I only would have to go by style and by operation.

JUDGE HERMAN: Are you still saying that Moravec was laid off before White?

THE WITNESS: Am I still saying? If I, if I said so, then I would just, in my mind, that I laid off Moravec first, but it's -- but if it's incorrect, if you are trying to say that it was the 7th or the 8th, I could not swear about it either way.

I honestly do not recall dates. I'm not good at dates. I don't -- I can recall incidents, I can recall events.

JUDGE HERMAN: We didn't ask you about dates. You were asked to specify the order of the layoffs.

THE WITNESS: Order of the layoffs, how it was usually?

JUDGE HERMAN: You said Moravec was laid off first.

THE WITNESS: I would assume it would be her first, since it's her first function that, that would be the order.

JUDGE HERMAN: It's not a question of assuming. It's a question of what you remember.

Do you remember laying off Moravec before or after White?

THE WITNESS: I believe I remember laying her off first and I may -- I don't, I don't recall any other way. That's how I remember it.

MR. WEINRICH: I'd like to approach the bench.

Mr. Kushner?

(A bench conference was held at this point between counsel and the Court.)

Q (By Mr. Scher) Mrs. Harkavy, you're not absolutely certain from your present recollection what date it was that Donna Moravec was laid off, is that correct?

A The date in itself?

Q Date.

A No, I, I would not.

Q I would like to ask you to look at the pay roll record for 1974 to see if that refreshes your recollection.

MR. WEINRICH: Objection. I ask the witness to close the book, if it's refreshed her recollection.

JUDGE HERMAN: All right, the objection is sustained. Close the book. Now, tell us.

Do you know what date Moravec was laid off?

THE WITNESS: It would have to be --

JUDGE HERMAN: Don't --

THE WITNESS: -- no? Well, the pay roll is a week after, so I'm still going back to --

Your Honor, I am not good at dates and numbers, and, therefore, I mean, I would say it would have to be sometimes the 8th --

JUDGE HERMAN: Have to be sometimes the 8th? What does that mean?

THE WITNESS: The pay roll record would show differently.

JUDGE HERMAN: Off the record.

(Discussion off the record.)

Q (By Mr. Scher) And is it your testimony that you're not absolutely certain as to the date that Mary White was laid off?

A I would say Mary White was laid off the very next day. In my, in my recollection, after Donna.

MR. WEINRICH: I will stipulate the date of Mary White's layoff, if that's acceptable to counsel.

MR. SCHER: As being what?

MR. WEINRICH: As being October the 7th.

MR. HARKAVY: I think that's incorrect.

JUDGE HERMAN: Her last day of work was the 7th, is that right?

THE WITNESS: I don't believe --

Q (By Mr. Scher) Mrs. Harkavy, are you absolutely certain of the date that Mary White was laid off?

A I would, yes, I would tend to say yes. Mary White was laid off a day after Donna Moravec.

Q Is it possible that Mary White worked for a day less than Mrs. Moravec but that your pay roll records did not show that fact?

A She worked less?

Q To the best of your knowledge, are your pay roll records indicating whether an employee worked on a particular day or not accurate?

A Yes.

MR. WEINRICH: I hope so, for crying out loud.

THE WITNESS: Yes, absolutely correct.

Q (By Mr. Scher) So that if your pay roll records for the week of October 12, 1974 indicate that Mary White's last day of employment was Monday, October 7, whereas Donna Moravec's last date of employment was in the middle of Tuesday, October 8th, is that an accurate reflection?

A From the pay roll record, that would be accurate.

Q Now, I want to ask you again, are you absolutely certain, without reference to the pay roll book, of the last day of employment of Donna Moravec and the last day of employment of Mary White?

A Yes, I am certain to the degree that I am going by style, I'm going by performance, by operation, by what they're doing.

Is, is it possible I have the dates confused? Yes, it could be possible. I am not a date keeper. I am not a record collector. I don't collect dates.

Q I'd like to ask you to refer to the pay roll book for 1974 so that you can testify on that point with accuracy.

A Who do you want?

Q With respect to Mary White and Donna Moravec.

MR. WEINRICH: She's already looked at the book, Your Honor, to refresh her recollection. The date has has already been stipulated to. The witness hasn't said that her dates were -- she was confused about the dates.

We're willing to give her the date. She has testified she was not confused about the order, and that's what is material.

I will stipulate as to the dates. We don't have to waste this time on dates. The dates are already in the record. We know that, but she's testified that she is certain about the order, so the matter should be closed at this point.

MR. SCHER: Your Honor, I can't misdirect her in what I consider to be an immaterial respect to be inaccurate.

JUDGE HERMAN: I would say that this is quite material, and I am willing to let the witness examine that record to determine what the pay roll records show for the last days of work of White and Moravec, and then let the witness, after she's refreshed her recollection on that, testify again.

MR. WEINRICH: I request that the witness at this point only be permitted to look at the week ending 10/12/74.

JUDGE HERMAN: That's right.

MR. SCHER: October 12, week ending October 12.

JUDGE HERMAN: For White and Moravec.

THE WITNESS: O. K., Moravec --

MR. SCHER: The Friday of each pay roll week ending the date before the one at the top of the sheet, apparently.

MR. WEINRICH: Here, we can use my copy and write in the dates, if you like.

THE WITNESS: The week ending the 12th. I don't have my glasses here. I can't read so well.

It's O. K., I can see without them.

Q (By Mr. Scher) Now, can you tell us, now having refreshed your recollection with the pay roll book for the week ending October 12, the date that you laid off Mary White and the date that you laid off Donna Moravec?

A According to that, it would have to be the same day.

MR. SCHER: Do you want to enter into a stipulation of the layoff date of these two people and take it from there?

MR. WEINRICH: We've already admitted the layoff date of the two people.

JUDGE HERMAN: Why don't you get your stipulation?

MR. WEINRICH: O. K., I will so stipulate, that Donna Moravec's last day of work was October the 8th, and Mary White's last day of work was October the 7th.

JUDGE HERMAN: So stipulated?

MR. SCHER: So stipulated, and that the 7th was a Monday and the 8th was a Tuesday.

JUDGE HERMAN: Right.

MR. WEINRICH: Right.

Q (By Mr. Scher) All right, now, with respect to the work that Donna Moravec was doing through her last day of employment and the work that Mary White was doing through her last day of employment, what happened to further production in those operations?

A Well, each operation was diminishing. There was a constantly diminishing of operations as each layoff, whoever performed and what they finished, the work was diminishing, and, therefore, less was to be done.

Q Was there, nevertheless, some of that work still remaining?

A On certain operations, yes.

Q Can you tell us who then assumed the responsibility among the remaining employees for the work that was done by Donna Moravec and the work that was done by Mary White?

A Donna Moravec, I believe very little was done by Millie Cacaperdo, who was there for about four years with us, three or four years, something like that.

Q In the case of Mary White?

A Mary White, Ana Nemec.

Q Now, after Moravec and White were laid off, who was laid off after that and what were the circumstances that led to that decision?

A Well, the circumstance which would be the Merrow operation, which comes first, and, therefore, as, again, experience, also, now it came into seniority.

There were two Merrow operators. One is Carmen Gonzalez and one is Grace Rugolo. Carmen was a competent, excellent operator, who also performed many, many other operations, many other functions. Grace Rugolo only was learning on the Merrow machine, nothing else.

She, I believe I tried her once on the single-needle or Singer and I took her off it. She could not perform what I needed for that. Therefore, she just stayed on the Merrow and she learned, I would say, two, three operations on the Merrow work and she performed on that.

Q Who assumed, then, doing the work that Grace Rugolo had done after she was laid off?

A No one. Only Carmen continued on that, only Carmen Gonzalez.

Q After Grace Rugolo was laid off, after that?

A After Grace Rugolo, there would have to be some of the floor help, since there is less machine work, and, therefore, it would have to be some of the floor work. It would have to -- it would have had to be --

JUDGE HERMAN: Go on, go on.

A (Continuing) It would have to be Julia Delfino, I believe.

MR. SCHER: Off the record, Your Honor? Can we go off the record?

JUDGE HERMAN: Off the record.

(Discussion off the record.)

JUDGE HERMAN: Go on.

THE WITNESS: After Grace Rugolo there was -- well, I have to think who I had in the place left.

Q (By Mr. Scher) Mrs. Harkavy, do you have records in your possession which have either not been admitted into evidence or which are now in evidence which state with precision the last day of employment of each of the employees who were in your employ on October 4 or October 1 of 1974?

Is that document in this room?

A The document would be the pay roll records, which would be the most accurate.

Q Can you remember with absolute certainty the next employee laid off after Grace Rugolo?

A Who the person was?

Q With absolute certainty as to date, the next person that was laid off after Grace Rugolo.

If you don't remember, tell me that, and I have a document in this room with which you can refresh your recollection.

A I would have to say it was -- wait a second. Joyce Brown, who resigned at that time.

She was still with us before, yes. Joyce Brown, and she resigned and we still had work for her, and that would have been in the same period, sometimes around that period.

Q Well, is it your testimony, then, that you don't remember the precise date of the next person after Grace Rugolo?

A Well, if you --

JUDGE HERMAN: She doesn't remember any dates, so we're not concerned with that.

THE WITNESS: Dates are very, very, very -- throwing me, and, therefore, I'm actually concentrating on each individual as a person.

JUDGE HERMAN: Right.

THE WITNESS: I'm not concentrating on the 6th, it was the 7th or the 12th or the 15th.

JUDGE HERMAN: That's what we want you to concentrate on, the next person to be laid off.

THE WITNESS: Joyce Brown, who resigned. Thereafter, it would have to be --

Q (By Mr. Scher) All right, before you leave Joyce Brown, what work was Joyce Brown doing at the time that she resigned?

A Joyce Brown was working on fur cuffs. She was attacking -- tacking them on with a tacking machine. She was putting on collars, which was, I would say, an air compressor hand-machine. It's not a machine, actually, was putting on, application of putting on collars.

She was doing buttons, buttonholes, and when I had no work for her in there, I would let her work certain things on the floor, helping out. That meant sometimes even packing or sometimes laying out merchandise, or whatever was left in the place to function with.

Q After her resignation, who assumed her work or who performed her work?

A Well, after her resignation, there was, as far as cuffs, they were applied prior to Joyce Brown on the machine, on the tacking machine, was called a button machine or tacking machine, but we also have -- which is called a hand-machine, and, therefore, Jo O'Connell was capable and able to put them on by hand, which is a little slower operation, but she performed that equally. It is not a machine, but it's done by hand.

Q All right, now, after Joyce Brown resigned, who was the next person that you can recollect?

A Well, it would have, follow in order, and that would be, I would say, Jo, Josephine -- Julia Delfino, because she was, she was finishing. She was marking, and that is marking for buttons. There was no longer work for buttons, and, therefore, she would be next in line.

She also did trimming. She also helped button the garments to prepare for pressing, etcetera.

Q And what were the circumstances surrounding your laying her off next?

A The circumstance was she was, there was -- we were in sort of rushing the order through. She was quite capable and aware of the business, even she was not with us long. She was with us approximately five or six months, something like that, but very knowledgeable person in the industry, and she did know what it means to -- when a rush order has to go. She had a good concept what goes on.

Therefore, she -- it happened to be the Jewish Holidays and she had asked me would, would she -- are we going to be open for two days or one day, and I said one day. I said, "Why?" She said because she would like to visit her ill brother, and since it's only one day, it would be a strain on her, upon herself, to just run into the city for one day and come back in one day. Then she will wait until we slow down, which it was imminent in her eye.

I would say about -- the Jewish Holidays were approximately around the 17th, 18th, something like that, towards the end of the month. She asked me would it be O. K. "if I take off this particular Friday, as this gives me three days, since we're not that busy Friday, so I could take off?"

She took off Friday and that will give her three days to visit her brother. Upon returning, she came in the following Monday and everything was as usual. She had very little work to do and she even turned to me and she says, "Mrs. Murray, I feel terrible working this way. Had I known it's that slow, I would have stayed with my brother, because he has a terminal cancer, and, therefore, I would have liked to spend more time with him."

The very next day I received a phone call, and I believe it was her daughter or daughter-in-law, who said that, "My mother or mother-in-law" -- which I don't recall exactly the words -- "has to go," and her brother passed away and she will not, she will not be in. She was not in for the balance of the week.

The following week -- Ana Nemec used to drive her to work, so, Friday, I had asked Ana Nemec to "Please, if Julia calls you, please leave her a message that before she comes in on Monday to confirm with me, whether I will have enough work for her," and, therefore, Julia did call in and she said, "I am so glad that there is no work, not the sense that there is no work, but my mother is ill and I would like to spend some time with her," and that was more or less her termination of layoff.

Also, she questioned me whether she could go for an unemployment, apply for unemployment.

Q Who finished up after Julia Delfino?

A In, usually in the sweaters industry, as a rule —

and I would say nine out of ten times -- as a matter of fact, I would say the first time that I can recall that we have worked on furs on sweaters, so, therefore, pressing is one of, more or less, the last operation before packing. Everything is finished, completed. The garment is prepared, cut, sewn, cleaned, buttoned. It goes to pressing. From pressing it goes to packing and being shipped out.

And the fur garment itself which we're discussing here all day long -- the past week -- usually what happens, we had to press it first in order to apply the fur, so pressing was done before application, putting on fur and putting on fur collars. Therefore, it would have to be the presser, and I must go in this order.

I can't go in any other order, because I'm thinking in terms of style.

Q That would be who?

A That would be Andrew Zimmerman.

Q What surrounded, you know, what were the circumstances surrounding your telling him he was laid off?

A Andrew Zimmerman was with us approximately six weeks, who was a tailor all his life. He came to us as a trainee. He was an excellent worker. He performed excellently, and, with that, he -- as a matter of fact, there was a slowdown already prior to the pressing.

We were taking pieces, piece by piece, sometimes two hours, three hours a day of pressing. He turned to me -- he came many times and came to me and says to me, "Mrs. Murray, don't worry. I am a presser. I still have a job. I still continue. I still maintain my tailoring. I earn more money by doing tailoring than working here."

He has taken on this job since he had lost two of his major accounts at that time where he went to Hungary, and, for some reason, they had canceled him, or whatever, whatever happened, and he had taken on Solboro and wanted to learn the profession as a presser, and he was quite competent, he was capable of doing it.

With that -- I think his hours were cut short for several days prior. The last day of shipment -- and I'm almost certain, and I think I would check on the shipping date, which was the Spuncraft order which we were trying to make that deadline, that commitment that we had, and he came to me. He says, "You know, the way it looks, I don't have enough. You have a little more than a half a day's work."

He came into the office and he said to me, "Would you want me to leave now at noon, and I will come in tomorrow and finish it." I turned to him, "No, Andrew, please stay and finish it, as long as is necessary to finish whatever the order is, because this order must go today," and, therefore, he stayed, I believe, until about two 'clock and he finished the complete order.

Q That was his last day of employment?

A That was his last day. I had asked him to contact me by Wednesday and see what will develop, and he did contact me by Wednesday.

Q Did anything further develop?

A There was nothing developing because there was nothing coming through. I was hoping something would come through.

Q Who after Mr. Zimmerman left your employ?

A I would have to say it was -- it would have to be Millie Cacaperdo.

Q Can you tell us the circumstances surrounding her last work with you?

A Millie Cacaperdo was with us long enough. She knows when there is no more finishing, no more trimming. That's more or less her performance in the place.

She will turn sleeves, she will turn, any functions which are necessary on the floor, which are just helping out the operators, and once that is finished, she -- that is more or less her function, and that's all she does.

Q So, what was happening with work for her?

A There was no work for her, and, therefore, I asked her to report to unemployment and keep in touch with me, as I do to all employees, each and every one I will question whether they're eligible for unemployment.

Q Who after Millie?

A I would say it would have to be, the, the packer, Mildred Ede.

Q What were the circumstances surrounding her?

A There was nothing to be packed. That would be the same, similar situation. I still inform each and every employee to --

Q After Mildred Ede?

A Mildred Ede, and then I would say it was Carmen.

Q Carmen Gonzalez?

A Carmen Gonzalez.

Q What were the circumstances surrounding her?

A Carmen Gonzalez worked on practically every machine in our place and was working on samples with me. I was training her for some of the samples, because we were far from production at this point when Carmen was working, and, as I say, Carmen is an excellent operator. She will perform any machine, every machine she did work on.

The last -- and I can't remember exactly the date, but I would say it was sometime in October or first week in November, and I am uncertain on the date, and there is no way unless I take -- unless I check this --

JUDGE HERMAN: Forget the date.

A (Continuing) She requested a week off. My comment to her was, "So little left and I only have a few dozen samples. Why not stay until you finish and then you might as well take off."

She said, no, she needed a week off, and she took off the week and returned the following week for her pay check. With that, she came, she said, "Anything left?" And I said, no, because I had already finished the samples myself and there was nothing left for her to do.

I, I will say there was no more than anywhere from three to five dozen really left to do, samples, which take a little longer than production work, and I was trying, really, to train her more for sample work, because up to this point she was only working on production, and in order for me to get her geared into when I do need a sample line, that she would be competent and be able to handle it, because samples are far more important and they have to be perfect in order for it to sell -- she came in Thursday and she -- I asked -- she -- I asked her to appear to report to Unemployment.

The next Friday, the following Friday, whatever that date is, she called me up and she said she went to report to Unemployment and Unemployment sent her to a job and she decided to take it, and I said, fine, Carmen, and the very next day, Monday following, that Monday, Ana Nemec came in and she confirmed that Ana -- Carmen told her she spoke to her on the telephone. I don't know whether Saturday, was your primary consideration in determining the dates of their layoff or the time of their layoff?

A Well, there is no more. This is it. This is the end. There was no order, nothing coming in fresh, so, therefore, it is the end of whatever is available to be done.

Q Is there anyone still in the employ of the company?

A Yes, Richard Kilz.

Q His position is not --

A He's a knitter mechanic.

Q After Nemec and O'Connell were laid off, what duties and responsibilities did he perform?

A What?

Q After the layoff of Nemec and O'Connell, what was left that Kilz was doing?

A Kilz works with, with the machine, which means new designs, new samples, and we're continually doing so up to date.

Q On any production work?

A Now? No.

Q After the cancellation of the Sweater Bee order and from that point on until the last two production people were laid off; namely, Nemec and O'Connell, could you describe exactly or with as much precision as you can what work was being done in the shop, either that resulted in materials being shipped out or that resulted in materials going into storage or in bins, or they are still lying around?

Tell us what actually happened in the shop for the time that followed the cancellation of the Sweater Bee order until the final production person was laid off.

A The only -- well, we're talking about two people now. You are talking about Ana Nemec and Jo O'Connell, what they were doing?

Q No, we're talking about after the Sweater Bee --

A Cancellation?

Q -- cancellation for the period following September 29 and running straight through to the time production --

A Ceased?

Q Yes, describe what was happening in the shop from the production point of view.

A On Sweater Bee, which was diminishing and it was no longer pressure to put it out, we were putting, we were trying to put Spuncraft orders out, which we had a deadline to ship.

There was a few orders on Penrose which we had to deliver equally. And, thereafter, was, was only a sample line which we developed for the purpose of future sales, and they're still in our plant and they're still stored there and they have not been sold. Hopefully, we will.

Q Incidentally, as people were laid off and their work was picked up by other people, who made those work assignments?

A I do.

Q And who makes the determination whether a particular employee can do more than one operation?

A I do.

Q Does Jo O'Connell or did Jo O'Connell assign people to work?

A No.

Q Did she decide what machine or what operation a person would perform?

A No.

Q What function did Jo O'Connell serve in distributing work?

A Only under my direction, and that would mean from sometimes I will give her in the morning an instruction to assign work to person so-and-so. Sometimes, sometimes it will be by the hour, sometimes it will be twice a day, sometimes three times a day. That means to carry over a certain order to a particular operator.

Q Would you physically describe that?

A Well, that would -- physically, which means cloth is cut, an order is cut, a particular order, for argument's sake, taking an amount which would be, let's say, 25 dozen, a lot of 25 dozen, I would say, "Jo, this lot No. 8, I would like you to assign to Carmen, or to whatever the name, the particular name is, whoever is working on that particular function or that particular style." That's the extent of her performance.

She will bring it to that particular person, and I will, therefore, follow up and instruct that person what to do on that particular garment.

Q Would you then go out -- were you on the floor every day?

A Absolutely.

Q Would you make the rounds of people at different work stations?

A Certainly.

Q And what if an employee had a question concerning their work which had been given to them? Who would they ask?

A They'd come to me.

Q If a person runs out of work during the day, who determines what they do after that?

A I decide.

Q If they had switched from what they started out the day with to something else, who makes that transfer?

A I make that transfer.

Q You testified earlier that you do all the hiring of personnel. Do you also do the firing?

A Yes.

Q Does anyone else in the company have the authority?

A My husband, my husband, Mr. Harkavy.

Q Does Jo O'Connell have the authority to fire anybody?

A No.

Q Has she ever recommended to you that you either hire or fire somebody, and you, thereafter, have done that?

A No, no.

Q Have you ever told any employees in the company that Jo O'Connell is the forelady?

A No.

Q Mrs. Harkavy, do you recall a time in the first week of October after the time that the Union came in to see you and Mr. Harkavy in the office, when you had a discussion with an employee, Ana Nemec?

A Yes.

Q Would you tell us where that discussion took place, what you said to her and what she said to you?

A It was sometime in the morning. I don't recall the time. I had asked her -- walked over to her machine, and I said I would like to see her and she came into the office.

With that -- I believe I was on the phone. When she had come back later in the day -- now, exactly I don't know what time -- and she walked into the office and she said to me, "I gather you want to see me about the Union," and I said, "Yes, what is going on?"

Her answer to me was, "I have signed up. Mrs. Murray, you are too late. We have all signed up and I will no longer go into any further discussion about that," and that was the extent of the conversation with me with her.

Q Do you recall a time the following week, on a Monday or Tuesday, when employees came into the shop wearing buttons?

A Yes.

Q Did you have a discussion with any employee about that, and, if so, who was it with, what did you say and what did the employee say?

A I recall walking over to Grace Rugolo and asked her if the button she's wearing, was it legal.

Q Was it legal?

A Was it legal, and she replied, yes, it is, and, with that, I was just --

Q Was there any other employee there?

A Not to my knowledge, not that I recall, and if there was, I don't recall anyone being there.

Q Have you been in the Hearing Room all throughout this proceeding?

A Yes, yes.

Q Do you recall testimony to the effect that Donna

Moravec --

A Yes.

Q -- came into the shop and took off her coat and was wearing a button?

A I recall th[illegible]cimony and I thought it was as contrived as it could be.

MR. WEINRICH: Objection; move to strike.

JUDGE HERMAN: I'll allow it to stand.

Ask your question.

Q (By Mr. Scher) All right, did you observe Donna Moravec wearing a button on her coat?

A Later, yes.

Q And did you have a conversation with her about the button?

A No, I did not. Only when Grace, when I questioned, "Is it legal," and my husband pointed yes, it is legal, let it stand with that.

Q You are talking about Mr. Harkavy?

A Mr. Harkavy, yes. When I had questioned Grace whether that button was legal to wear, and she answered yes, it is legal to wear, and my husband confirmed it, "Rita, leave her alone. It is legal." This was the extent of the conversation.

Q Do you recall using the phrase or making the statement to the effect that "This is my house," or something to that effect, to any employee?

A No, I don't believe I have ever made that statement in any way, unless I said, when she said -- I questioned her, "Is --

Q Who is "she"?

A Grace Rugolo. "Is it legal to wear this button?" I -- she said, "Yes, I would not do anything that is illegal," and, with that, I said, "I hope, in my place" -- to that my husband interrupted and said, "Let it go. It's legal. Let's end it there," and that was the end of the situation, and he interrupted anything. If I had anything to say, he interrupted me and just pulled me away with that. If there is anything pertaining to that --

Q Did you ask or order Grace Rugolo or any other employee to take off a button?

A No, absolutely not.

Q In fact, do you know whether or not these employees continued to wear their buttons?

A Yes, they did, to the last day of employment.

Q You've heard the testimony and are familiar with Respondent's Exhibit No. 3, are you not, which is a letter signed by four employees addressed to Mr. Sciacca, dated October 5th?

A Yes.

Q When was the first time that you learned about or heard about or saw that letter?

A That would have to be the following Monday, the first thing Monday morning.

Q Can you tell us what happened?

A If October 4th was Friday, so that would be what day -- what day would that be?

Q October 7th.

A October 7th, Monday morning, I would say approximately two, three, four minutes after five, Josephine O'Connell handed me a little note without a word and I walked in the office. I opened it. With that, I read a statement, "We, the undersigned" -- addressed to Mr. Sciacca.

Q Yes, did Mrs. O'Connell say anything to you at the time she gave you the letter?

A Not a word.

Q You testified earlier that you are in the shop every day.

A Correct.

Q Are there some times that during the course of the year you are not in the shop?

A The only recollection I have in the past ten years is, was last going to the dentist and the last July 18th that I was absent, the first time that I can recall, in ten years, for one single day.

Q All right, now, on that day, and on how many occasions would you say you went to the dentist?

A Dentist? The dentist is away from my plant, I would say, about three minutes by car. Sitting time, fifteen, twenty minutes --

Q I don't mean how long. How many times?

A How many teeth did I have fixed this year?

JUDGE HERMAN: A half dozen?

THE WITNESS: Approximately, approximately, I would say so.

Q (By Mr. Scher) In the course of a year?

A Course of the year, up to date.

Q Now, on the occasion when you are gone from the shop, who is in charge of the shop?

A Mr. Harkavy.

Q Can you recall any occasions when both you and he have been gone at the same time?

A No. Either one or the other is there at all times.

Q In your absence, with regard to production work, does any employee have the authority to act in your place?

A No.

Q What happens with respect to work? What happens in a situation where work runs out for an employee on one of the five or six occasions that you're not there? What does the employee do?

A Your answer would be I go out to the dentist. That's as far as I can recall ever going out, with the exception of one day, which was an emergency, which was a funeral -- I leave notes with Jo, if so-and-so -- I know in advance I have an appointment, so, therefore, I prepare for that particular person whatever is necessary to do.

Should it arise, then she will turn to Mr. Harkavy and he will give her further instructions.

Q Were you in the Hearing Room at the time that the witness testified, Carmela Cacaperdo, of conversations that she had with Josephine O'Connell in Josephine's automobile traveling to and from work together?

A Yes, I was.

Q Did you ever have a conversation with Josephine O'Connell in which you told her that you would close the plant rather than have a Union?

A Absolutely not.

Q Did you ever have a conversation with her in which you told her to tell that to any employee?

A Absolutely not.

Q Did you ever have a conversation with Josephine O'Connell in which you told her to tell employees that you would -- tell any employee that you would take care of them when they returned to work?

A No.

Q Incidentally, what is the company practice or in its history with respect to wage adjustments for employees during the year?

A Company practice is usually when the season starts where there is always an automatic raise. There is many times during the year on merits, and I think it has been already indicated prior that I will decide on a person if they do well, perform well, I will give them a raise, which has nothing to do with policy. It's just a merit award.

Q When the season starts, addressing ourselves to the fall season, let's take, you know, '72, '73, as an example, are you talking about when work resumes after the fall layoff when you say "When the season starts"?

A Well, our big season usually starts in early, mid, end of April, mid-May, depending; fluctuates from year to year, but that is our big season, which lasts usually till October, November, approximately that time.

That is our longest period of season. Yes, that will be considered a raise, warrant for a raise, and, therefore, each increases follow.

Q When an employee has a seasonal adjustment, are you saying except for a merit adjustment you give --

A Correct.

Q That's the rate they work at through that season?

A As a rule, I would say so, yes.

Q And their next adjustment is the following season when they return again?

A Correct.

Q Well, over the course of time that Josephine O'Conn has worked for the company, have you had conversations with her in which you have offered your opinion to her how you feel about a Union in the shop?

A Not to my knowledge did I offer any opinion whatsoever, none whatsoever that I can recall.

If she formulates her own, I can't help it. The o opinion that I recall expressing this, but at one time and this goes back, I would say, about two or three yea ago -- this has been that my feeling is that it's too small a place to be organized, and this had come to me that the older people who were in our plant felt that about it, that we are, too.

Q Can you put this into a conversation that you recollect?

A Conversation? There is no particular conversatio that I had with anyone in particular. The particular there were, we had older people who have been with us, help for many, many years. Now, you must understand are talking about a period of six weeks of brand new people.

My relationship with these brand new people was

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the same as a better relationship all through the yea

MR. WEINRICH: Objection.

JUDGE HERMAN: Overruled.

Go ahead.

A (Continuing) Their opinion, any opinion that so has assumed has to be from prior conversation. They lunchtime, they sit next to their machines, they have discussions. What they discuss, what their interpreta is, I don't know.

Q Right, but, in other words, you do recollect, how conversations even if not specific conversations.

Were there --

A Their attitude, that it is a small place, and tha there would be -- actually, it's just a family place. We're a small family. It has been proven through the years, that so many employees have been there for X amo of years which they were aware of that this is what ha

JUDGE HERMAN: I overrode an objection on this, b I don't see where it's going.

MR. SCHER: O. K.

Q (By Mr. Scher) Aside from your conversation with Ana Nemec and your conversation with Grace Rugolo, aft October 4, on or after October 4, that is, did you hav any conversation with any other employees regarding th Union?

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A No.

Q Did you ever make the statement to any employee or employees that, "You don't want your jobs? I see you don' want your jobs."

A I have never made that statement. The only -- I woul like to elaborate a little bit on that, and that is -- wha is her name? Millie Cacaperdo had a row with Jo O'Connell for many months or weeks prior, that I understand -- what their problems were, I did not understand, and Jo O'Connell would, if I would instruct Jo O'Connell to tell something to --

Q Millie?

A What's her name? Millie -- there would be an enormous battle. She would come back, "Millie refuses to do it." Therefore, I said, "Jo, you tell Millie I said so; you must do it now."

One day it reached a point that there was practically a war, and if you've ever seen two women fight over something, that's what happened.

I walked over to Millie Cacaperdo, and this has nothing to do with -- this was, I would say, at least a week prior to October 4th, easily, and with that, I walked over to Millie Cacaperdo and I said, "Millie, you keep telling me you want the job and here I am telling you what to do and you're refusing it," and that was pertaining to that.

Q On the 7th of October, after Josephine O'Connell gav you a copy of a letter that she had sent to Mr. Sciacca, did you have a conversation with Ana Nemec about that letter?

A That would be what date?

Q Monday.

A 7th would be Monday, yes.

Q Could you tell us how that conversation came about, what you said to her and what she said to you?

A Ana called me to her machine and she said, "Did you see I signed a letter?" I said, "Yes," and, with that, she, I -- that was it. I was kind of taken by surprise, she asking me whether she signed the letter. Prior --

Q She asking you what?

A She asked me did I see her sign the letter, did Jo give me the letter that I see it signed, and I was kind of taken -- I said, yes, what was --

Q Did you say anything further to her?

A I, I believe I made a comment as, "I hope you made the right decision," or, "I think you made the right decision," something to that effect.

MR. SCHER: I have no further questions.

JUDGE HERMAN: We will recess for ten minutes.

(A recess was taken at this point.)

(Documents produced)

MR. SCHER: Shall I state on the record what these are?

Let the record show I am delivering to the Counsel for the General Counsel the company's records of sample orders which were worked on by the company at the tail end of 1974, and it's the cutting order book which goes from 1971 through 1974.

THE WITNESS: It may be '71, '72.

MR. SCHER: 1971 through 1974.

CROSS-EXAMINATION

Q (By Mr. Weinrich) Now, Mrs. Harkavy, your major function during the production season is to supervise and direct the production work, is that correct?

A Correct.

Q And, in so doing, you spend a great part of your day on the production floor walking around inspecting what's going on, and from time to time sitting on a machine and working, is that correct?

A Correct.

Q You're in constant contact with employees on a daily basis, is that correct?

A Correct.

Q You know what's going on in that shop, is that correct?

A I hope so.

Q Isn't it also correct that at the end of the day y
stand by the punch clock and you say good night to the
employees as they leave?

A Correct.

Q And you do that because you are interested in what
employees are doing and that they do a good job for you,
is that correct?

A I'm interested as a human being of saying good
morning and good night for people who work for me daily.

Q And, as a human being, you are also interested in
whether your employees are satisfied or dissatisfied wi
their working conditions, is that correct?

A Correct.

Q And you do your best to find out whether they are
satisfied or dissatisfied, is that correct?

A I hope so.

Q Because a satisfied employee is a good employee, is
that correct?

A I would assume so.

Q Now, you gave a great deal of testimony concerning
the flow of work and saying that the flow of work, to a
certain extent, depends upon the backlog after things sl
down, after the knitting machines stopped, it depended
upon a backlog, is that correct?

THE WITNESS: Would you repeat that question?

MR. WEINRICH: I will.

Q (By Mr. Weinrich) Well, let's take it this way, Mrs. Harkavy: You said that in September of 1974 you had very little backlog compared to other years?

A Yes.

Q And the knitting machines stopped completely as far as the production line -- when was it, from your testimony?

A My testimony, I would say, would be middle of September to towards the end of September.

Q But for production purposes you have anough of a backlog to carry yourself through until October the 30th of 1974, when the last shipment was shipped, is that correct?

A Not the way you are phrasing it.

Q Did you do any knitting during the month of October of 1974?

A Yes, samples.

Q Did you do any production knitting, knitting for orders to be shipped --

A No.

Q -- for customers during October of 1974?

JUDGE HERMAN: The answer is no?

THE WITNESS: No. I did answer it.

MR. WEINRICH: Could we mark this as General Counsel's

A Correct.

Q So, from that date, can you tell me, from the fac the document, when the item is knit?

A When they begin to knit, that would depend. After -- a few days of knitting before, before this date. This is received from the knitting department. Therefore, it goes on the floor for separating, and that would be the date that this is received from the knitting department.

Q Received from the knitting department?

A Correct.

Q So that dates in the first column would represent the dates upon which knitting is completed?

A Going into -- knitting is completed, correct.

Q And the second column, is it correct that you have the various quantities of various sizes that will be produced?

A A breakdown of sizes, yes.-

Q Now, you will have another date --

A Correct.

Q -- in that second column. What does that date represent?

A That date represents when it was cut, prepared to go into production for a particular operation.

Q Does it represent the date that it goes into producti

A Sometimes yes, sometimes when it's completed from the cutting. That does not mean that it represents just the exact date that it goes into production.

Q It would be sometime on or after that date it goes into production?

A Sometimes on or after.

Q In the fourth column there is another operation name and box number.

A The name --

JUDGE HERMAN: That's the third column?

THE WITNESS: The third column.

Q (By Mr. Weinrich) The third column. What does the name in that column represent?

A That will be, represents the first operation, who works on that particular garment, and that is the name that's listed there.

Q I see. So, from this booklet, on its face we can tell the number of yards or the number of dozen knitted --

A Correct.

Q -- when the knitting was completed --

A Correct.

Q -- and when and to whom it was sent?

A To work.

Q To work on?

A Correct.

Q Now, this document will not show us when those goods are completed, is that correct?

A Correct.

Q However, is it true that any of the entries in here, all of these goods have been completed and that the billing invoices will match up to show approximately when they were completed because when they were shipped --

A Billing invoices will only give you the answer, amount of dozens, will not go into -- will go into style number, will go into dozens, but will not go into kettle and will not go into the coding that we have, order number such-and-such.

Q Well, you say there is an order number here?

A Which has nothing to do with the billing order. This is just for cutting purposes. We keep a record so we know what we're doing.

Q In the billing order --

A You have the amount, style No. 682, X amount of dozens yes, that will tell you the billing order.

Q Will this document, to a certain extent, show us your backlog?

A Yes.

Q Because the difference between the day the knitting was completed and the day that it went into production --

A Yes, it would.

Q -- production began, will be the backlog?

A Will give you a good indication, a day or two up or

(General Counsel's Exhibit 20 for Identification was Received in Evidence.)

Q (By Mr. Weinrich) Now, you testified that --

JUDGE HERMAN: Incidentally, I will put all counsel on notice right now I don't intend to go through all of these books to find what the evidence may show, except insofar as I am led by your arguments.

MR. WEINRICH: That's certainly understood, Your Honor.

Could we just go off the record a moment?

JUDGE HERMAN: Off the record.

(Discussion off the record.)

Q (By Mr. Weinrich) You testified, Mrs. Harkavy, that it took or takes two-and-a-half to three weeks, depending upon the people, from the time of shutdown of the knitting machines until it would show up in the production.

A At the -- usually, yes, it would take two-and-a-half to three weeks to complete an order, but also, depending on the style, some will take a little longer, some will take a little less time, depending on the complicated style that's involved.

Q So that only dealt with two-and-a-half to three weeks to complete any given style that you were working on?

A Yes, it will depend on the style. We're dealing here with styled merchandise. We're not dealing here just with classic merchandise, which is easier, an easier flow and it has a smoother flow.

Q You gave a lot of testimony concerning the fact that many of your employees were inexperienced --

A Correct.

Q -- they were new to the industry?

A Correct.

Q It is correct, isn't it, that during the month of September 1974 and August of 1974 when the Sweater Bee order was being completed, all these new people continued to work on that order?

THE WITNESS: Would you repeat that, September what?

Q During the period of time in August and September of 1974, when the company was working to meet its commitment to Sweater Bee --

A Yes.

Q -- its commitment to finish a very complicated and complex sweater --

A Yes.

Q -- that you had all these new and inexperienced peopl working on that sweater --

A Correct.

Q -- at that time?

A Yes.

Q And during that period of time none of these people that you claim to be inexperienced or new to the industry were discharged for incompetence?

A I had no reason to.

Q Because they were doing their job to your satisfaction, is that correct?

A No, that would not be so. I was training them. Each and every one is trained.

They come from different fields, and even if they come from the exact same knitwear field they would have to be trained to my needs and to my liking. I would say that each and every one was trained for my particular needs. They were in training.

Q Would that include Mary White? From your testimony concerning Mary White, one might think that you had to redo every piece of merchandise that she manufactured. That's not correct, is it?

A I think I just testified to Mary White, just prior, and I would have to rearrange my statement.

I've tried -- Mary White was a very nice person. As a person, she came to me for, for her application -- her application to me was she would need the job, she was in the industry as an experienced person, for ten months she worked some place else. She has only earned two full pay checks some place else, wherever she worked, and she needs a job desperately, she's willing to learn.

Q O. K., so you put her to work?

A I accepted her on that basis and I kept her on that basis and I've tried her on those basis and I attempted, took a lot of my time, too, a lot of my energy, expended more than normally I would for a beginner -- not a beginner -- a beginner I would spend more. She represente herself to be a professional, ten months on one particula machine.

Q Someone with your experience was able to judge her qualifications immediately, weren't you?

A I certainly did. That's why I put her on a differen machine.

Q Machine to machine to machine until she --

A To give her a chance. I have given her a chance. People do come into my place. I train them for, for a wee sometimes a day. You have a good, competent -- when a person is competent or not, even by merely sitting down by that particular machine or particular operation -- Mary White verbally expressed herself beautifully. Mary White expressed herself she was an expert. I took her word for it and I accepted it, and I do accept each and every application on those basis. I make the decision when someone works how competent they are and I could se whether their competence is for me.

That does not mean I disqualify them because they'r not competent on one machine. I will give them a chance to try on several others. With Mary White I have done so.

Q How much of her work did you have to redo on a daily basis, Mrs. Harkavy?

A I would say on the last operation, which was the most difficult to remove, I would say the simplest operation to perform but the most difficult to remove, which was a border -- it is applied and cannot be opened like some machines where you can open a stitch structure very simply, it will open -- a chain stitch, when you pull a thread it will open. It's less complicated.

The machine she worked on was simple to operate, it was completely operated, all she had to do was guide the cloth, but to remove that border took, I would say, anything to produce -- took five times as long to remove, and, therefore, that merchandise was, I would say, practically obsolete, and, therefore, I had to take time, and in the evening, mornings, during the day, whenever I could find time to repair it.

Q For how long a period of time did you find you had to repair her work on that Mauser machine?

A On that Mauser, I believe she was with us four weeks. I would say she worked on that machine approximately about a week. I was trying her. The first day I excluded learning. Thereafter, normally, any person, as

I said before, in this room would learn that machine in t minutes, any inexperienced person, five minutes, half hou I will allow, and, therefore, I allowed a full day for he to run. She was running it, and by the end of the day I found myself with two to four dozen bringing to me, Julia examining the goods, and she could not make it, bring it to me for repairs.

Q On what day was that?

A Every given day.

Q Every given day for a week?

A She worked approximately, I would say, a week on tha machine.

Q She had worked, the records will show that she work for your company from August 27th until October the 7th of 1974.

Is it your testimony that only during her last week of employment she worked on the Mauser?

A No, my testimony is that she worked on several machines during that period of time that I have tried he on.

Q My question was, Mrs. Harkavy, is it your testimony that during the last week of employment that was the onl week on which she worked on the Mauser?

A No, I tried her on the labeling equally, on that same week. As a matter of fact, on her day of releasin her, her last day of employment, she worked a half a day on the label machine.

Q While working on the Mauser, was she working on the Sweater Bee sweaters?

A Yes, she was.

Q For how long had she been working on the Sweater Bee sweaters on the Mauser?

A That was the only operation on the, on that machine, so that's the only operation she could have performed on that machine.

Q How many days was she working on that machine before October the 7th?

A I would say approximately a week, five days, six days, something in that effect.

Q So, during the entire period, then, that she worked on the Mauser, the Sweater Bee orders had been canceled, is that correct?

A If she worked on the Mauser? We were still finishing them.

Q But you weren't finishing them for the purpose of delivering?

A Because the order is canceled, that doesn't mean you have to ruin the merchandise. That still means I am intending to sell it. That still means it has to be perfect merchandise. I can't deliver merchandise to, I

I mean, just send them to charity. Somebody used the word "undertaker."

Q Was Mary White laid off because of lack of work or for incompetence?

A She was laid off because of lack of work.

Q Now, you say that the layoffs follow a set pattern, according to the style you manufacture, and, therefore, it was your testimony that if there is going to be a layoff then the first one to be laid off should be the separator, Donna Moravec.

A I testified this particular year the first person, yes, would be the first operation, and that's my recollection, because I have to go on those basis.

There have been prior, which are also seniority and it's still this year seniority that counts, but since this year we had some people performing more than one operation on one machine and seniority was not as effective at that time as it was what they were performing on.

Q Well, Donna Moravec was at the beginning of the operation, is that correct, the separator?

A The separating was the first function of, of, from the knitting department.

Q From the knitting department. Is it your testimony that as of October the 8th, 1974 there was no more separating work to be done?

A No, my testimony is that there is sample goods, and other people who have seniority are equally capable of performing that separating, so they would be doing it, and that would Millie Cacaperdo.

Q It was more than sample goods remaining to be separated?

A At October 4th?

Q As of October 4th.

A Possibly a very small amount.

Q If goods are knit and then they are not put into production for a period of a month or possibly two months, are those goods separated or are they stored without being separated?

A They're stored. In the first place, I don't recall having anything knitted for two months and waiting for production, because we would starve to death if we would do that. Secondly, I would say it would stay in the rolls, because we like to keep it clean. Therefore, we store them in rolls. We cover them.

We have large windows with sun reflecting on them, and so even if, even if it's a matter of a week, if it's a matter of days, it is covered, rolls are covered for that purpose.

Q Let me show you General Counsel's Exhibit No. 20, and ask you to look at that page and see if that refreshes your recollection about any goods put into production after October the 8th.

A October is what month?

Q 10.

A Nothing here, no.

Q What about above that?

A 14, that's the only thing I see here. The last one is 4 and 14.

Q There is one October 10?

A There is the 10th.

JUDGE HERMAN: Yes, that's right.

THE WITNESS: Correct.

Q (By Mr. Weinrich) Those goods put in production on October 10th and October 14th, a total of 60 dozen goods of Style 1000, Style 1001, having been knit on August 26, 1974, and August the 30th, 1974 --

A 26th, that is right, correct.

Q -- a period of approximately a little less than two months, do you know if those goods were separated? When were those goods separated, if you know?

A I couldn't give you an exact accurate date, but that would be more or less correct, just the way I said. There was some, something to be separated, and, therefore, Millie, most likely, was doing it, Millie Cacaperdo.

Q So, at the time Donna Moravec was laid off on October the 8th, there were still at least goods going into production on October the 10th and October the 14th that had not yet been separated and had to be separated by somebody else, is that correct?

A With the exception that if you correct the date here, it was knitted, and when it goes into finishing, there is little time span difference. If you turn to any other page you would see a two, three-week time. You have 8/16 and 10/10.

Q August 26, 1974, knitting was completed and October 10th, 1974 production began?

A Yes.

Q That's a period of almost a month-and-a-half?

A Eight to ten, yes, I guess so.

Q So, that would be a backlog of almost a month-and-a-half?

A That's very possible, yes.

Q When would those goods have been separated?

A That would be very difficult for me to say, but I would say it could be anywheres that date or prior, a few days before.

Q Which date, the date production started?

A No, the knitting. The knitting, you have to go to the knitting. This would be this date here, 8/26 would have to be -- this, this is already -- the steam, this is cut, this is tied, this is marked, so, you have --

JUDGE HERMAN: When you say "this" --

THE WITNESS: This date, which is 8/26. 8/26 it has to be in order for this to come to this date.

JUDGE HERMAN: Come to what date?

THE WITNESS: 10/10. I'm sorry.

Q (By Mr. Weinrich) Is it your testimony that it would take a month-and-a-half to separate these, press and cut these goods, before they go into production?

A It's my testimony that when this comes off the machin it goes into a bin. Now, there could be a day, it could b a week, it could be two days, it could be three weeks, depending on our backlog of orders that this would be separated. That's what my testimony is.

Q Separated before it went into the bin?

A Well, I think you are a little confused with terminology. Knitting, it comes off in a roll. That rol is put into a bin, which is for separating.

Therefore, separating which Donna does takes it from there. From there, there is many operations that follow to come to this particular date.

Now, there is many times we will take from knitting, which would -- could be a period of even three days for finishing, depending how much knitting is involved, how large the orders are, what is involved, and, therefore, it could be, the date could be closer or it could be longer. That would be very -- there is many operations follow this.

This is not the only operation that goes into cutting after the separating. There is a lot more to be done to it before it gets where --

Q Before it gets to where?

A Before it gets to this point, to the cutting.

Q It's already been cut on the date in the book?

A Correct.

Q It's been cut and sent to the machine operator?

A Correct.

Q That's the date the machine operator receives it?

A Correct.

JUDGE HERMAN: You are saying that there are many operations between the --

THE WITNESS: Separating.

JUDGE HERMAN: -- between the date of the finishing of the knitting and the date of the finishing of the cutting?

THE WITNESS: Going to the cutting.

Now, when it's finished, cut and prepared, and here is the person's name that it goes to. This is where the discrepancy of the date is. Here is 8/26/74. Here is 10/10/74.

JUDGE HERMAN: 8/26 being the date it's finished by the knitting machine?

THE WITNESS: The date it's finished by the knitting machine and it is separated.

JUDGE HERMAN: And 10/10 being --

THE WITNESS: Finishing in the cutting department, which is prepared for the person to go to sewing.

Q (By Mr. Weinrich) Now, if it's finished on 8/26/74 for this particular style number that you're looking at, is that immediately separated?

A That will greatly depend what is in this place; very much so. It would depend on the urgency of an order. You may have an order that a customer will say, "I will put in an order of a particular color," and he'll call up on the phone two hours later and says, "I don't want that, that particular color. I want another color. Rush it through."

We will stop that to take another order, so it will greatly depend on the situation. If you can give me a particular situation, I'll be glad to answer it.

Q O. K., we're looking now at a Spuncraft order, is that correct?

A Correct.

Q The knitting was completed at the end of August of 1974?

A Correct.

Q Is it also correct that during the month of September

1974 your factory was busy trying to complete the Sweater Bee order which was not canceled until the end of September 1974?

A Certainly we were busy to get it out.

Q Therefore, based upon that, were these goods separated after the knitting was completed? Can you tell from that book?

A No way can I tell you whether it was separated or wasn't separated, but I -- this would be 8. 8 is what?

Q August.

A August. This was not separated, no. I specifically recall because there was one color that we worked on, one color only.

Q That would be 30 dozen of Style No. 1000, bone?

A No, we did not work on the bone at that time, no, it was not separated.

As far as I can recall, it was one color and one color only that we worked on, and that goes as called birch.

Q You have also testified in looking at this book that there is a lot of processes between the time that knitting ends and the time it's cut and prepared. Isn't it also correct that as you look in this book --

A You are going back, too far back. All right, go ahead.

Q Turning to the Sweater Bee page a moment, you have certain styles here. For instance, 101, knitting completed on 4/24/74, cutting completed on 4/29/74.

A That, that in itself indicates to you just the question that you asked me prior. Now, that will depend on how much work we have in the place, and, as you can see here, this 4/19, this 4/25 is already working on it. You have a few days of working process. Other times --

Q When you get to 8/26 to 10/10, that would mean between 8/26 and 10/10 you were pretty busy and couldn't get to that?

A That could be possibly very much so, very possible.

Q And, also, looking at the Spuncraft page, we have other goods here that were put into production on 10/14, 20 dozen of Style 1001, on 10/17, 26 dozen of Style 1000, all goods that were knit in August of 1974.

A You're, you are throwing figures in, you are throwing numbers in, you're throwing dates here. With some exception, and as you can see, they don't follow in order. When this is cut, this is recorded.

Q Right.

A Now, we take orders. You are going down, you see 17 was done before even the 14 was done because we needed this order before we needed the 14.

Q Could that possibly be because you make your first record in this book when the goods, when knitting was completed, and the knitting was completed here on 8/19 and here on 8/20, so that would appear first in the book?

A This appears first in the book, the knitting finishing.

Q Right.

A This appears after when it was done but this also appears when we first, as you can see, 17 - 10/17/74 went first before 10/14/74 or 10/2, even it comes at a later date, which means that particular color was not needed or that particular style was not needed.

Q But you are putting things into production in the month of October that were knit in the month of August?

A Yes. What's wrong with that.

Q When were those things separated? That's what I want to know.

A I have no record of it, because there is no need for a record of that, when it was separated.

The goods is knitted. Our major issue and our major effort is to get machines running. The machines are more important than whether it's separated.

If I have work on the floor, I don't need that separating. It's not that urgent for me to separate it today or not to have it separated, unless we need it for the particular day for working.

Q Donna Moravec testified that a whole rackful of goods for separation were brought out on October the 8th and were then returned and were not separated.

A May I refer to my sample record, please, on that, and I will answer you.

Donna Moravec testified to three particular colors, and, those colors, there was no way could she have received those colors, because they were not existing. They were sample orders which I can clarify it for you right here on those colors, so, therefore, I think, if you would like to see them, I will gladly show you the color that she testified to and also the date when they were produced and what happened.

JUDGE HERMAN: You are referring now to what?

THE WITNESS: He --

JUDGE HERMAN: What are you referring to?

THE WITNESS: The counsel asked me --

JUDGE HERMAN: What is that book you are referring to?

THE WITNESS: This is the colors that the counsel said that Donna Moravec testified to colors.

MR. SCHER: Sample book.

THE WITNESS: Well, this is my sample book that I'm referring to, and I would like to answer it.

JUDGE HERMAN: The sample book is not in evidence?

THE WITNESS: No, but I'd like to answer it in this way. I think it would clarify the record.

She testified to colors. Now, there is no, couldn't be any color on the floor with the exception of the birch.

Q (By Mr. Weinrich) Why is that?

A Because that's, that's the only color we were making.

Q You were only making birch sweaters for Spuncraft and Penrose?

A Sweater Bee.

Q But you put for Sweater B.. what color?

A And also Spuncraft, birch is correct, and other colors for Spuncraft by --

Q Other colors for Spuncraft?

A But -- go ahead. Would you like to see the colors? I will list them for you gladly.

Q I'm waiting for you to answer. You said you were going to answer a question from the sample book.

A Yes, I will. I will show you the date and time of the sample book, that the colors she testified to and when they went into, when they were cut, when they were knitted, and the colors, and I think that should clear your record. It couldn't possibly have existed.

JUDGE HERMAN: I'm afraid that you are getting a lot of material into this record that is not going to be clear to anybody because there are a lot of references by relative pronouns or demonstrative pronouns to "this" and "that."

MR. WEINRICH: That's true.

JUDGE HERMAN: And without further identification, nobody is going to understand it.

MR. WEINRICH: I'll withdraw my last question and move ahead, leaving the documents better for argument.

Q (By Mr. Weinrich) Mary White, her job came some place in the production line, is that correct?

A I don't follow your question, some place in the production line.

Q You said people are laid off according to their job and according to the styles you were working on.

A I said I was trying to recollect how the layoffs came about, who was first according to style, and this is how I, I, to the best of my recollection, this is how I laid off each and every person.

Q Donna Moravec was first in order of production?

A To my recollection.

Q And, therefore, to your recollection, the first laid off.

Who was second in order of production?

A I believe I testified Mary White.

Q Well, then, in fact, the sweaters that were being produced in October after they were separated, weren't they cut and then they went to the Merrow machine operators?

A I'm very glad you said that, because you just referred to the Spuncraft order which has nothing to do with the Mauser work. There was no Mauser work on the order.

Q No Mauser work at all?

A None whatsoever. That's why I am stressing style, which is very important.

Q But they continued to complete the Sweater Bee work?

A Certainly.

Q During the months of September and October 1974?

A Certainly.

Q Had all the borders been done?

A Up to the day that Mary White was released, all the borders were done, with the exception that I was repairing some, and I believe there was a question, which as you recall, Your Honor, I think there was a name, Glen Cairne, which was a special order for Penrose, a small amount, and I would not allow Mary White to work on it.

I said, "I will do it myself," which I did, and it was a small amount, and I do not recall whether it's 25 or 30 dozen, or whatever the amount is it amounts to, and that is a particular fiber which she had absolutely never touched prior to that.

Q Who did the Mauser work on the Sweater Bee sweaters after Mary White?

A No one did it except on occasion on samples, Ana and myself.

Q Did you do more work after the layoffs began?

A I don't count my time because I don't account for my time to anybody.

Q Try and think. I know it's not written any place, but from your own recollection, you spent more time on the machine?

A I couldn't have, because I had less work to be done, so I couldn't have done more.

Q Had less work to be done?

A Certainly.

Q You also had less people working, is that correct?

A Yes, but there was less work.

Q Does your estimate of less work include the Spuncraft and Penrose orders which were put into production after the 4th of October 1974?

A Spuncraft and Penrose orders were minute, yes.

Q Minute compared to what?

A Compared to the Sweater Bee order. We are talking of a span of since approximately early June to going into -- you have a long span of practically half of the production, half of the orders, or even less than that, as a matter of fact, Spuncraft compared to Sweater Bee. You are talking about dozens now, and since we're talking about dozens, you have half the amount of dozens compared to Sweater Bee.

Q There are 135 to 140 dozen of Sweater Bee's order canceled, is that correct?

A Correct.

Q And this was in excess of 200 dozen of Spuncraft and Penrose orders to be completed after October the 4th --

A Certainly.

Q -- is that correct?

A But Spuncraft orders and Penrose orders are not as complicated and it's a far simpler classic number to be completed, which did not need the detailed work and did not need that amount of time, did not need as many people to work on.

Q Grace Rugolo had worked at the beginning of the manufacturing process, is that correct?

A Correct.

Q On the Merrow machine?

A Correct.

Q Now, Grace Rugolo was laid off on October the 8th, 1974. Who was doing the Merrowing on October the 8th and 9th, 1974?

A The only person that I can recall is Carmen.

Q Carmen Gonzalez?

A Correct.

Q Why was Grace Rugolo laid off on October 8th?

A Because Grace Rugolo had learned two operations, to my knowledge, and I was teaching her the third, and that finished the operation. That was the end of it.

Q There was nothing left for her to do?

A There was nothing except the samples that I stated prior that Carmen was working on.

Q Which sweaters was she working on?

A Grace Rugolo was working on the shoulders, which I would say was Sweater Bee, and most of, most of the shoulders and closing sleeves for Spuncraft.

Q For Spuncraft?

A Yes.

Q Your book shows that there was Spuncraft orders put into production after October the 8th.

A Correct, but she did not do those operations because she had no knowledge of them.

Q The simple operations?

A She knew the simple operations, yes.

Q The Spuncraft operations, didn't they involve all the simple operation?

A All the simple operation that pertained to Grace, she finished. All the operations that she knew how, they were finished.

Q But there were new sweaters put into production after October 8th?

A They were not new sweaters. The sweaters were in there already. That doesn't mean when a sweater, a shoulder is closed or the seam is closed, the next day someone else takes them. I may take something else and move it aside and let it go. Therefore, her work has already been completed by that time, whatever she knew how to do.

Q You testified concerning General Counsel's Exhibit No. 20 that the date in the second column indicated the date upon which the sweater had been cut and sent to the first machine operation?

A The second column date will indicate to you that this is, yes, being to Grace, and this is Grace's name here. This is Grace's name here. Going down, Carmen, and Grace.

Q So, on a style, for instance Style 1000, which the book would indicate was sent to Carmen on 10/17/74, did that have no Merrowing work to be done on it?

A It had Merrowing work, but not what Grace knew how to do. It depended on the knowledge of what she knew.

I had trained her two to three operations and that's all she could perform, but Carmen was a competent, experienced operator for fifteen or twenty years, and she could do any, any operation I showed her how to do.

I would have to spend another four or five or maybe a week or two weeks to train Grace even to just perform one particular operation on this.

certain she also mentioned -- since there was a Jewish holiday, taking time off -- "I will not work the full day" -- I'm sorry --"I will stay the full day," and she, she volunteered this, to work the full day.

Q Only on one occasion she worked full time?

A Well, she understood what happened when you need a rush order out.

Q Aside from that, she worked less than a full day on every day she worked, except for that one occasion?

A I don't remember. I honestly can't remember whether she worked every day full day or she worked --

Q You testified she started out with the understanding of being a part-time employee?

A She requested, she requested it.

Q How many hours a day does a part-time employee work?

A There is no specific time, and there was no -- she requested, she mentioned that she is on Social Security, she would not like to jeopardize her income. She had already earned X amount of dollars to that point, and, therefore, she would like a part-time job. That does not mean that -- hours could be anywheres from three, four, depending on my needs.

I said to her, "I have very little work," when I hire her, but I would like to try her out, and I did try her ou I was extremely satisfied with what she's capable of doin and, therefore, I had given her -- in those two or three week period of time, even tried to fill her in to show her my intent, that I'm interested in her, that I would like -- I gave her fill-ins on another machine, which she could not do well. She said twenty-five, thirty years she worked on a particular machine.

Q During that particular time, those three weeks that Margaret Passannante worked for you, did she work for you part time or full time?

A I said there were a few -- she cut off a few days and she insisted she'd like to leave at three-thirty. Yes, she did.

Q How many days did she leave at three-thirty?

A I don't know. You would have to check it. No way can I tell you that, absolutely none.

Q If she would have left at three-thirty, she would have been charged for that hour, is that correct? You wouldn't have paid for eight hours?

A I would not have paid for, for eight hours, no.

Q So, if the record indicates that she only worked seven hours one day in that three-week period, those records would be correct, wouldn't they?

A If the records show that, then the records would be correct.

Q And you testified to several factors that played a part in the layoff; the cancellation had an enormous effect, you testified, there were no orders coming was another reason.

What orders would be coming in as of the end of September of 1974? Would that be for the fall line or for this special holiday line?

A Holiday line.

Q When did production on the holiday line usually start?

A That usually varies. I would say a line is completed sometimes in August, sample line. I must make it -- I keep forgetting -- I think everybody understands what I am saying -- sample line, sometimes August, September it's being shown. By the time it's shown, by the time it goes into production, it could be anywheres from the end of November, beginning of December, something in that area, which would be a spring line or holiday line, considered, depending sometimes it's combined, the two names together.

MR. WEINRICH: Off the record.

(A recess was taken at this point.)

Q (By Mr. Weinrich) Mrs. Harkavy, is it your testimon that Margaret Passannante was a part-time employee and worked for Solboro on a part-time basis?

A Yes.

Q A part-time employee, would that be one who worked less than eight hours in a given day?

A Not necessarily.

Q What is your definition of a part-time employee?

A I've had part-time employees work sometimes full time, sometimes two days a week, sometimes a few hours a day, depending on my need.

Q In which category did Margaret Passannante fall?

A There is no category. She applied for the job as a, on Social Security, that she is on Social Security, and she has earned X amount of dollars, and, therefore, she would like a part-time job.

She lives very close by to us and her husband is retired. She does not drive. She would like to, she would like the job.

I told her, at the time when she came in -- as a matter of fact, she didn't even call for an appointment. She walked into the plant.

I had asked her -- and that is unusual, because employees -- because most of the time people call for an appointment. She had walked in, identified herself. "How did you know about us?" And, with that, she applied for the job. She asked me. I told her I had very little work for her. I would like to try her, which I did.

Q Getting to her part-time status, was she part time because she worked less than eight hours in a given day or was she part time because she worked less than a full week?

A She was not -- because of any particular -- she requested a part-time job on the status that she cannot earn more than -- she would not like to lose her benefits from the Social Security basis. That, I believe, is 24 or $2,500 for the year. I'm uncertain on the figure.

She has already earned X amount of dollars working some place else, and, therefore, she would just like to have it on a part-time basis.

Q Margaret Passannante's employment record indicates that she worked eight hours every day except for one day when she worked seven hours and one day when she didn't work at all, a Friday. Her last day of work, the last day that she worked was October 3rd, and she did not work on October the 4th.

A I recall this incident very vividly. She --

Q Now, in that three-week period of time, only working one seven-hour day, would you still describe her as a part time?

A Mr. Weinrich, I think I just make it clear how her application was and my understanding with her. Secondly, there were Jewish holidays. Margaret Passannante was an experienced person, and whether it was my field or anybody else's field, she had a good thorough knowledge what production means, what it means to go out, what, what it entails. She said, since we lost so many days --

Q When -- continue. I'm sorry.

A (Continuing) "During the Jewish holidays, I will stay full time, and, thereafter, I would like to remain as part time, as you need me," and that was my agreement with her to the last day when she worked on that particular Thursday, which she completed everything that was to be completed on that particular machine.

Q Isn't it a fact that Margaret Passannante did not work on October 4the because she had to appear in Court, it had nothing to do with lack of work?

A Margaret Passannante asked me could she take off that day, there is nothing for her to do, she finished her work that day, and she would like to take off.

What she did with that day, I cannot testify. I was not with her. I was in my plant.

Q What work was Margaret Passannante doing on October the 3rd?

A She was working on finishing. I believe she finished that day completely all the pockets.

Q On Spuncraft sweaters, is that correct?

A Correct, correct.

Q Did the Spuncraft sweaters that were produced or were put into production after October the 3rd have pockets?

A Spuncraft sweaters, we had some with, some without.

Those were completely finished to the last pocket to be put on those garments.

Q Were any other Spuncraft sweaters put into production after October 3rd that had pockets?

A No.

Q Which style number had pockets?

A I would have to check the record and I will tell you the style number.

That was the cardigan V-neck -- not V-neck, shawl, and that would be blue, which would be 682 -- beg your pardon -- no, no, no, not -- that would be 1000 -- that would be 682 is correct, 682, and it would be 1000. That's about it, those two styles.

Q 682 and 1000 would be the Spuncraft styles with pockets?

A Correct.

Q Did any of the Penrose styles have pockets?

A No.

Q Who else operated the single-needle Singer machine, other than Margaret Passannante?

A Ana Nemec, Carmen Gonzalez. One day I put Grace Rugolo on.

Q Who operated it after Margaret Passannante no longer worked?

A I don't believe anyone, with the exception of myself and I think Ana Nemec, one or two hours she did something on it.

Q How much time did you spend on the machine, Mrs. Harkavy?

A I never account for my time. It could be one day, it could be an hour. Sometimes it could be more.

Q Do you ever work on the machines at night or on Saturdays?

A Sometimes, but very seldom. I have better things to do than that.

Q Have you worked on the machines at night and on Saturdays since October the 4th?

A No, I have not.

Q When did you repair Mary White's work?

A Pardon?

Q When did you repair Mary White's work?

A Any time during the day when I found free time.

Q Do you recall testifying before that you spent evenings repairing Mary White's work?

A When I say "evenings," that means after hours when everybody leaves. As far as I'm concerned, after 4:30 is evening.

Q Now, Julia Delfino, she was the next one laid off, is that correct?

MR. SCHER: Objection.

THE WITNESS: After who?

Q (By Mr. Weinrich) After Grace Rugolo.

A I don't believe I testified to that.

JUDGE HERMAN: Did you have an objection?

MR. SCHER: I hope it's been cured. The question was very vague and unspecific. I wasn't aware of the fact we were talking about employees in any particular order.

MR. WEINRICH: I tried to correct it.

THE WITNESS: I'm sorry. [illegible] didn't hear the question. I didn't --

Q (By Mr. Weinrich) You testified earlier that first Donna Moravec was laid off, Margaret Passannante being in a different category, according to your testimony, then Grace Rugolo was laid off and then the next person laid off was Julia Delfino?

A I believe I testified that Joyce Brown resigned befor Julia Delfino was laid off.

JUDGE HERMAN: That's right.

MR. WEINRICH: That's your recollection of the order of layoff?

JUDGE HERMAN: That was her testimony.

Q (By Mr. Weinrich) According to your pay roll record which are in evidence, Julia Delfino's last day or work was a Monday, October the 21st. Your records also indica that Joyce Brown worked through October the 26th of 1974.

Does that refresh your recollection as to who stopped working first?

A It certainly does.

Q Who stopped working first?

A Julia stopped because she requested time off, not only she requested, it was an emergency where her brother died, and she was absent for that period.

Q Did she ever return to work after October?

A No. She called in. I requested her to call in and I will fill her in on further information if there is any work available for her.

Q Well, Joyce Brown, too, was not laid off on the last day that she worked?

A No, Joyce Brown was out -- yes, she, she was out a week. Her husband came in for her pay check. He said she will be in the next day or day after.

She did not appear. The following Friday, it was on a Friday, called in that Joyce Brown is resigning. There was a female who called. I requested -- normally, I accept a resignation on the phone by the person. In this particular case, I asked for a written resignation, since it was -- the person who called identified herself as her sister. I said I'd like a written resignation from her. Therefore, I received a resignation, which was from the Union, saying I'm responsible for Joyce, Joyce's resignation and I will be held further responsible for Joyce's resignation, etcetera, etcetera.

Q Julia Delfino marked buttons, is that correct?

A That's correct.

Q And buttons were marked with an infrared machine, is that correct?

A Buttons are marked with a chalk which is visible only under infrared lighting.

Q So, it's after they're marked that you use the infrare lighting?

A Correct.

Q Were any buttons marked after Julia Delfino stopped working?

A No.

Q Was production finished on buttons

A On buttons.

Q On 10/21?

A Whatever Julia finished, which was prior, even befor she had left, there was very little work. If Julia did n mark buttons, she helped out buttoning the garments preparing to pressing, trimming it, all other functions i the area working in that department; cutting a little odd and ends, trimming, etcetera, but button marking was completed way before that.

Q I see, but she also did other things which were at the end of the production cycle now?

A Correct.

Q Leading up to the shipping?

A Well, it would have to be to the finishing end, it -- which could mean anything from cleaning up, straightening up, straightening cartons, straightening areas, straightening her department. It could be anything. Where there is lack of work, then they will occupy themselves with that.

Q Didn't the sweaters that were made for Spuncraft and Penrose need pressing?

A Certainly.

Q Who operated the pressing machine after Andrew Zimmerman was laid off?

A No one.

Q So, after 10/26, there was nothing pressed?

A Correct.

Q Although the last shipment went out on 10/30?

A Well, it takes time to pack, takes time to examine, takes time to ship after it's pressed. It's not the final end of it when it's pressed. There is more to be done after that.

Q Who pressed the samples?

A No one, except for myself, from pieces. Let me, let me correct myself. Pieces I press myself. Samples have not been pressed yet.

Q Isn't it important to have samples pressed? A sample garment is supposed to be a special garment?

A The initial sample, the original sample that I design is in the office, which is pressed, and I press it myself. Whether we have a presser, we don't have a presser, I like the sample to be to perfection. The rest of the samples have not been pressed up to today. They're still waiting pressing. They have not been sold, they have not -- there is no need to press them.

Q What did Mildred Ede do until November the 5th if she were the packer and all goods were shipped?

A Mildred Ede does packing, straightening up in the complete packing department and also helps out on -- occasionally preparing, which I don't believe the word has been used here, and if, Your Honor, you permit me for one second, I must, must say it, the word "body," we used a strip of cloth as body and that is laid up and prepared and that could be sampled, but pertaining to that, there is a joke that goes with it -- you won't allow me to, O. K

JUDGE HERMAN: We don't need any jokes.

Q (By Mr. Weinrich) Carmela Cacaperdo has been working for you since sometime in 1971, is that correct?

A Since when?

Q Sometime in 1971?

A I would say so, yes.

CSA Reporting

Q Mildred Ede began working for you in May of 1974?

A Correct.

Q They were both unskilled floor girls, is that correct?

A No, I -- you cannot classify these two people in the same category. Mildred Ede was hired and was trained to be a packer in the packing department and also hired to help out or preparing lay-up cloth, which I just illustrated, which is called body, and Millie Cacaperdo was an entirely different department, which is in the trimming and finishing and buttoning garments, preparing for pressing.

Q Isn't it correct that on the few occasions that you left the shop that you would give Josephine O'Connell a list of things that she would do, a list of assignments that she would make, an entire list of things to take her throughout the day -- that she would relate to other employees?

A No.

Q Is it your testimony that your husband would have to spend the entire day on the floor when you were out, supervising what was going on?

A My testimony is, in 1974 I took a, one particular day, which was July --

JUDGE HERMAN: You gave us that information.

THE WITNESS: O. K.

JUDGE HERMAN: You gave us that information already.

You don't have to specify the date.

A (Continuing) Any other time I spent -- I would say a half hour, in a half hour's time, very seldom, very seldom I used any further information. I am prepared. I have an appointment, therefore, I see everything is taken care of, and if there are any questions, Mr. Harkavy is there to answer them.

Q (By Mr. Weinrich) Before you left, you didn't give her instructions to carry her through before you returned?

A There is no need for a half hour or even an hour's time. I don't see the need, except with the instruction which I do give her.

I give order such-and-such to such-and-such a person, which could be any time of the day. It could be the mornin it could be in the afternoon.

JUDGE HERMAN: All right, you don't have to --

Q (By Mr. Weinrich) Isn't it true that you threatened to discharge Cacaperdo for failing to carry out an instruction related to her by Josephine O'Connell?

A I beg your pardon. I did not threaten Carmela Cacaperdo. It had to be a week or so prior, before Mr. Sciacca happened to walk into our place. It had -- and I had reprimanded Carmela, equally Julia Delfino, for coveri up the work that Mary White or anyone in the plant, new people who are working on garments, which they did not relate to me and I was very disturbed by the fact.

I said, "You girls don't seem to want your job if you are going to cover up the work, that is, that it should not be covered up," and, therefore, I felt that it is equally an interest for themselves to hold on and not to cover that Mary White does not do perfect work or someone else in the plant, but it should be brought to my attention, and, thereafter, they brought it to my attention daily to make sure that I have it and see it.

Q Wasn't it your earlier testimony that your conversation to Mrs. Cacaperdo concerning the statement, "Do you want your job," came as a result of an argument between Mrs. Cacaperdo and Josephine O'Connell, where Mrs. Cacaperdo refused to carry out an instruction given her by Josephine O'Connell?

A My, my testimony earlier is correct that I said that Josephine O'Connell and Cacaperdo had some disagreement, which I am unaware of what the disagreements are, but they came to me, Josephine, and she said -- I asked specifically to drop a particular work and go on, "Tell Millie Cacaperdo to do that first." She came back to me and says, "Millie refuses to take instructions from me."

I says, "You tell her that I said so, and if I said so, she will perform that," which had nothing to do what you are relating to now.

Q It wasn't at that time you went to Millie Cacaperdo and asked her, "Do you want your job"?

A No, absolutely not.

Q In your conversation with Grace Rugolo on the morning of October 8, 1974, concerning Grace Rugolo's Union button, who was it that asked Grace Rugolo if that was illegal?

A I believe I asked her.

Q And was your husband present with you at that time?

A He happened to walk over where he heard a word, and he says, yes, it is legal. Leave things be as they are.

Q Was that the entire conversation?

A As far as I can remember, yes. She answered, yes, it is legal. She herself answered, yes, it is legal.

Q And it is your testimony that there was no discussion by you concerning wearing a Union button in your home?

A None whatsoever.

Q And no discussion concerning her point of view being a Union point of view and your point of view being a management point of view?

A None whatsoever.

Q Well, after you asked her if it was illegal to wear that button, what else did you say before your husband interrupted you?

A That was exactly just what I said. He said, "Come on, it is legal. Let go, let it go, leave it with that."

Q The conversation had ended before he interrupted you, is that correct?

A He overheard and he pulled me away, and that was the end of the conversation.

Q Did you commonly ask employees in the shop what was going on?

A Did I what?

Q Was this a common phrase you used in the shop to employees, "What's going on"?

A Was it a common phrase? I don't know.

Q Was that part of your everyday conversation with employees, to ask them what's going on?

A If I saw occasionally a problem in the plant and I saw some unrest, which occasionally happened, I would ask what is happening, what is going on. Yes, I have done that.

Q On October the 4th, when you spoke to Ana Nemec, you asked --

A I asked Ana Nemec what is going on, yes.

Q Did you ever speak to any of the other employees about the Union?

A No, I did not.

Q Did you ever speak to Joyce Brown about the Union?

A No, I did not.

Q Julia Delfino?

A No, I did not.

Q Andrew Zimmerman?

A No. I would like to clarify that. To some degree.

Q When did you speak to Andrew Zimmerman?

A I had a long conversation with Andrew Zimmerman.

Q When was that?

A And I would say the conversation, which was back, date back to the Jewish holidays, and it had nothing to do with Union. It had to do with a very, very personal incident in my life and --

Q Did you ever speak with Andrew Zimmerman after that about the Union?

A. But I think, in order for you to understand my conversation with him, I think I would have to explain the conversation in itself before I would come to that answer.

Q Well, if it was before the Union, I'm not interested in it. I want to know --

A I know you're not, but I am interested of the outcome and that would be very effective, what my answer to him was about the Union, and that would be very important, I feel.

MR. WEINRICH: I feel that you should -- my question deals with any conversation you may have had with him about the Union on or after October the 4th.

JUDGE HERMAN: Just answer his question. If your counsel wants to get something more on this, he can ask y

THE WITNESS: I -- Zimmerman came to me, I would say sometime after the 4th, which would be another three, four or five days after -- I'm not certain exactly on the dates -- approximately Monday, Tuesday or Wednesday, one of those days, and he said to me, "What's happening here with the Union?"

And I said, "Don't worry about it." With that he said, "Someone had contacted me," and he tells -- he did not release the name at first -- he would like to see me, and that was the end of the conversation.

The very next day he walked into my plant and he said a name. "Mr. Gaspar Sciacca came to see me. I spent two hours with him in my house." With that, I said, "Andrew, you told me yesterday you were not interested in anything. How come you spend so much time with Mr. Sciacca?"

And he answered me that he will speak from Hitler to Stalin, to anyone who will speak to him. Now, this is not the complete answer, full story.

Q Did you have any subsequent conversation with Mr. Zimmerman about the Union?

A I think that finished the story. That is the ending of my story with Mr. Zimmerman. I, I --

Q Did you ever speak with Donna Moravec about the Union?

A No, I did not.

Q Did you observe Donna Moravec wearing a Union button on October the 8th?

A I believe so.

Q Do you recall testifying on direct examination that you prepare in advance before you're going to be out of work and that you sometimes leave a note with Josephine O'Connell concerning what to do in your absence and then if she's not given specific instructions she would check with Mr. Harkavy?

Do you recall testifying to that on direct examination?

A I testified that as far as I can recall, 1974 I have been absent a very short period of time.

JUDGE HERMAN: Don't get into that again. Just what happens when you're absent?

THE WITNESS: When I'm absent, I will see to it, before I leave, that everyone has what needs to be taken care of, and if there is no, if there is any further instructions or any further questions, she will call on Mr. Harkavy and he will answer them.

Q (By Mr. Weinrich) Who is "she will call"?

A Mrs. O'Connell, Josephine O'Connell.

Q Do you give Mrs. O'Connell instructions by note?

A No, I will designate that such-and-such order should be given to a particular person.

Q And she will then, in your absence, carry out those instructions?

A As far as I know, but I don't recall any time bei in my absence to have followed that through. I haven't been absent that long from the place that she needed to perform that.

Q But she would do similar things upon your oral instructions while you were present?

A While I was present, yes.

Q What time did you speak with Donna Nemec on the morning that Josephine O'Connell gave you the letter?

A Nemec?

Q With Ana Nemec, on the morning Josephine O'Connell gave you the letter marked as Respondent's Exhibit 1 in Evidence, which I will show you.

A I'm sorry. Now, would you ask me the question, please?

JUDGE HERMAN: The question is, at what time? You testified that on October 7th you talked with Ana Nemec about that.

THE WITNESS: Correct.

JUDGE HERMAN: The question is, what time on October 7th was that?

THE WITNESS: I would say mid-morning. I asked her to come into the office. She came into the office but I was busy and she returned later.

I was on the, on the telephone. I was busy with something, and then she returned later to -- would that be your --

Q (By Mr. Weinrich) What did you say to her about the letter when she returned later?

A Oh, I'm sorry, sorry. I misunderstood your question.

Would you repeat the question, again? May I have it repeated?

Q I'll repeat it for you.

I am saying there came a morning, October the 7th, when Josephine O'Connell handed you a letter, Respondent's Exhibit No. 1.

A Right.

Q Following the receipt of that letter, you testified that you had a conversation with Ana Nemec. Where did that conversation take place?

A At her station.

Q At what time?

A I would say approximately nine o'clock.

Q What did you say to her?

A I called -- she asked me, "Did you see the letter that I signed?" "Yes, I did," and I believe my answer to her was, "I hope you made the right decision," or pertaining something to that effect.

Q Pertaining something to that effect?

A My comment to her was, "I hope you made the right decision," or "You made the right decision." That was my comment to her.

Q It was either "I hope you made the right decision" or the statement was "You made the right decision," either one, but you're not sure?

A It could be either, either one of those.

Q Are you also as uncertain about who started the conversation?

A No, I am not.

Q According to your testimony, she initiated the conversation?

A Absolutely.

Q You already knew she had signed the paper?

A No, I did know but I also knew her statement, what she told me Friday, and I was taken by surprise when she, when I saw her signature on the paper. That took me by shock.

Q You're sure it wasn't you who asked her, "Didn't you sign the paper"?

A I'm positive. No, I did not ask her. She summoned me to her machine, to wherever, wherever she was working on.

Q She summoned you?

A Yes.

Q Do you remember the entire conversation, except whether you said, "I hope it's a good idea," or, "It is a good idea"?

A If you are trying to use an expression that I used i everyday language, I, I -- the English language is filled with lots of expressions pertaining to the same thing.

I would say, I say, "I hope you made the right decision" or "I trust you made the right decision." You can pick any word with the decision.

Q I am trying to pick the word you said.

A I testified, I testified earlier. My statement will stand on that.

Q It was either one of two things?

A Right.

Q You testified about wage increases, that you often gave a wage increase at the start of the season, or, otherwise, you just gave merit increases?

A Yes.

Q Grace Rugolo received an increase during her employment with you, didn't she?

A Yes, she did.

Q That was a merit increase because she was a good employee, is that correct?

A She received it to give her confidence.

Q Is a confidence increase different than a merit increase?

A I would say so.

repeat the question.

Q (By Mr. Weinrich) Is it your opinion that your business is too small for the Union because it's a family-type --

JUDGE HERMAN: She's already expressed that.

THE WITNESS: I expressed it.

MR. WEINRICH: It's late in the day. My hearing must be --

Q (By Mr. Weinrich) How many dozens of garments does a competent operator turn out per hour?

A There is no way of saying, depending on the style, depending on the style, and, as you've heard in prior testimony, we have various styles in dresses and garments, and there is no way you can measure --

Q Were you told by any employees in the shop who had instigated the Union-organizing campaign?

A No, I was not.

Q Did you have occasion to speak to any of your employees by telephone after they were laid off?

A Only when they called in for pertaining to their work, a question whether there was work available.

Q Have you recalled any employees to work as of this date?

A No, I have not.

Q Was Josephine O'Connell a floor lady in training?

JUDGE HERMAN: Do you mean a floor lady?

Q (By Mr. Weinrich) Floor lady in training.

A Well, how can I answer you -- by simply saying there is a certain amount of ego involvement, and, yes, she is being trained for different phases of operation. She is not trained nor is she competent yet to handle any, anything as a floor lady should handle it.

Q But she is being trained?

A I would like her to, I would like to train her, yes.

JUDGE HERMAN: Well, you are training her?

THE WITNESS: Yes.

JUDGE HERMAN: For that position?

THE WITNESS: Yes.

Q (By Mr. Weinrich) Now, there is testimony in the record and you yourself have testified that Josephine O'Connell would relay instructions and directions to employees for you, is that correct?

A Only pertaining to work. If I directed her to a particular -- which meant only to carry or to bring over or to say -- if I'm tied up or have more important things that I'm working on, I will say, well, "Tell Millie to do this" or "Tell Ana to do this" or "Tell Carmen to do that," and if she -- if the instructions were not fulfilled, I would take it upon myself and follow it up, but she could not instruct anyone to do anything pertaining to the garmen which meant only to whether -- a menial job, which meant either trimming, leave trimming alone, go button the garment, or instead of buttoning the garment go and put the, put the box of sleeves and, and turn, and etcetera, so that --

Q But she might even go to a machine operator --

A No, sir.

Q -- and say Mrs. Harkavy said --

A No, sir.

Q -- work on this now instead of that?

A No, no, she could not.

Q She could not do that?

A She could not do that.

Q Not even in your absence?

A Not in my absence nor in my presence.

Q She could only tell people to do menial jobs?

A She could do the job that she herself knew how to do already. Therefore, she was able to instruct them. It meant if she knew how to separate and I said, "Go tell Millie to separate instead of buttoning the garment," she would tell Millie go and separate.

Q But she couldn't tell Grace or --

A No.

Q -- Carmen?

A Absolutely not.

JUDGE HERMAN: You're not letting him finish.

THE WITNESS: I'm sorry.

Q (By Mr. Weinrich) A simple instruction like "Work on Style 62 now instead of Style 683"?

A Josephine O'Connell would have no knowledge what would be needed to be done to that garment.

JUDGE HERMAN: The question, would she --

THE WITNESS: No.

JUDGE HERMAN: Would she go to anybody and say, "Mrs. Harkavy told you to work on this style"?

THE WITNESS: No, no, because I, at that point, she has no knowledge of what the garment should -- like what should be done to it, what needs to be done to it. She could not relay that information because if I were to say to her -- equally like you gentlemen here, sitting here -- you're so confused -- each operation, what it means -- that would be any person in the plant who is not familiar with a job, only if they do a certain work, and, therefore, if I would say to her, "Let her do the shoulders instead of the sleeves," she would not know what to relate to.

I would have to take it upon myself and show exactly what I'm looking for or what the particular operation has to be done.

JUDGE HERMAN: Next question.

Q (By Mr. Weinrich) Did Josephone O'Connell ever relay messages from employees to you?

A Not my -- not to my knowledge, no.

Q The employees would always speak with you directly?

A Directly.

Q Never through Josephine?

A Never through Josephine.

Q On the morning of October the 8th, 1974, did you see Mr. Sciacca in the parking lot of your building?

A When you say the 8th, what day would that be?

Q A Tuesday.

A Tuesday, yes.

Q Were there employees employed by you with Mr. Sciacca at that time?

A Yes.

Q Did you see Margaret Passannante, Mary White, Grace Rugolo and Donna Moravec with Mr. Sciacca that morning?

A Yes, yes.

Q Did you ever hear, through conversations of employees in the shop, that Grace Rugolo and Margaret Passannante were planted in the shop by the Union?

A I have heard it just recently.

Q Just recently? How recently?

A I would say about sometimes November.

MR. WEINRICH: No further questions.

JUDGE HERMAN: Mr. Kushner?

MR. KUSHNER: No questions.

JUDGE HERMAN: Mr. Scher?

REDIRECT EXAMINATION

Q (By Mr. Scher) Mrs. Harkavy, in the cross-examination relating to the Style 1000 and 1001, the knitting on it was completed on August 26 and then it went into production on October 10. You were asked the question whether it was possible that that indicated, because of that delay in time, that the shop was very busy and couldn't get to the work. This was Spuncraft work.

Aside from the possibility that the delay between knitting being completed and production starting can be attributable to the shop being busy, what else could it be attributable to?

A Depending on the, on the need of an order, which means Sweater Bee was first, more profitable to us, as, as just as common business sense. Therefore, you try to take the cream more, more than the one that is less profitable. That is one of the reasons.

The second reason is less -- more work is involved in a highly-styled garment, as we have indicated with the Sweater Bee order, and is quite complicated, takes more work to do, where a simpler garment, more classic garment, takes less time to do, so you leave it sort of on the side and you work into it as, as time permits. That is one of the areas.

Q Is it in any way related to the skills or abilities of the people that are employed at the plant?

A Many times, yes.

Q Can you recall any situations where in 1974 any part of the backlog that you had was attributable to the slower capabilities or skills of the employees as compared to any other period of time?

A Well, it was an indication in itself, because all of these employees, employees were new from, beginning sometimes, I would say, mid-July to the end of, beginning of August. They were all new people and they were just constantly being trained. Therefore, everything would slow down.

Q There was testimony by Donna Moravec when she was called as a witness to the effect that on one occesion when she came back to the company she saw some of the work that she had worked on in the shop, and she said that she knew that it was her work because she recognized the colors.

Could you tell us, was that an accurate statement by Donna Moravec --

A No.

Q -- or could you explain how the colors relate to the--

A No, they were not. I can relate the colors. This is the sample book for Solboro which I can indicate and --

Q It covers 1974?

A Pardon?

Q That covers 1974?

A This is the 1974 sample book, and it gives the exact details as it gives in all production orders, with the exception of amounts.

Now, if counsel -- Your Honor, if you would like to compare the sample orders with the amount, compare to amounts of production --

JUDGE HERMAN: Why don't you just answer his questio

THE WITNESS: Well, the question is that these color that she indicated did not exist, because these sample orders have been made way after, after she was laid off, that she had indicated.

Q (By Mr. Scher) You are saying that the sample order in the colors that she described --

A The color, the colors that Donna Moravec described d not exist at the time of her employment.

Now, these colors have been in for samples only, whi were produced after she was released. That's what I am saying.

Q Do you recall the colors that she mentioned?

A Yes. She mentioned navy, lilac and bone.

Q Didn't she also mention lavender?

A Well, lilac is lavender. It's the same thing.

MR. HARKAVY: I understand, yes.

MURRAY HARKAVY

was recalled as a witness by and on behalf of the Respondent, having been previously duly sworn, testified further as follows:

FURTHER REDIRECT EXAMINATION

Q (By Mr. Scher) Mr. Harkavy, there was testimony given earlier in this proceeding concerning an incident involving Grace Rugolo when she came into the shop after having ceased working for the company and in which she went to the rear of the shop and joined some other employees, and you came to the back of the shop and had a discussion with her, and she, thereafter, left the shop, and, thereafter, you requested some employees to confirm the facts of that incident in a document that you wrote up on a sheet of paper, and the company has introduced that into evidence as Respondent's Exhibit No. 3.

This was an incident that occurred on October 10th, 1974.

Can you recollect that incident, and, if so, can you tell us today what happened on that occasion, including who said what? What did you say to Grace Rugolo and what did she say to you?

A My wife informed me that, that Grace was visiting the girls in the back of the shop, or was in the back of the

Grace Rugolo.

MR. WEINRICH: Not involving any employee, no. I make no allegation that anything took place between Mr. Harkavy and Grace Rugolo on October the 10th that constitutes an 8(a)1.

MR. SCHER: That's a stipulation that you are entering or a statement you make?

MR. WEINRICH: I make that statement. I'm not alleging any 8(a)1 based on Mr. Harkavy's conversation with Grace Rugolo.

I am alleging an 8(a)1 based upon subsequent, a subsequent conversation with Carmen Gonzalez which, in some ways, touched upon this incident, and, some ways, did not.

MR. SCHER: I'm sure, Your Honor, you can appreciate the fact that there is nothing in the Complaint that would have guided me to that assumption, since the allegation --

JUDGE HERMAN: Don't apologize.

MR. SCHER: -- in the Complaint is very broad.

JUDGE HERMAN: You've got the statement now from counsel for the General Counsel, and what do you want to do at this point?

MR. SCHER: What I want to do is find my recap of Carmen Gonzalez' testimony.

Q (By Mr. Scher) All right, Mr. Harkavy, there was testimony by Carmen Gonzalez that on the day that Grace came in and this incident on October 10th occurred, that you asked her later that day, "What was Grace trying to do?"

Do you remember that conversation with Mrs. Gonzalez?

A I don't recall that particular question.

Q Do you recall having any conversation with her that day?

A Yes, I recall, yes, because I brought the statement to her that I had made up and asked her to read it, and, if she felt it was the truth, to verify it.

Q What did you say to her and what did she say to you?

A That, basically, that was it. I just brought the statement to her. I said, "You, you heard the whole conversation. Would you read this, and, if it's true, would you verify it?"

And she was very upset. She was really very emotional, and the conversation more or less couldn't carry on any further because she more or less was like sobbing.

Q Did you ask her any questions about her interest or involvement with the Union?

A None.

Q Did you ask her whether she had signed a card?

A I -- no.

Q Excuse me?

A No, I did not.

Q Can you think of any other conversation that you had with her that day concerning the Union?

A Well, it was concerning that particular allegation -- not the allegation, the paper, the statement that I made.

Q Yes?

A Later in the day, she came into the office with my wife and she was in a very distressed mood and she was talking about her daughter who was very sick, suffering from an illness, and her husband was sick, and she just doesn't want any kind of trouble and she is just sick of signing papers and getting involved, so forth and so on, that, along that avenue, and we calmed her down and she di calm down and we discussed the paper again, and then she said she was torn between loyalty and the facts as they happened.

She said, "I am willing to say everything happened, happened, but I don't want to sign anything," and we brought up the fact, "Well, is it the truth?" And she jus more or less made a sudden decision and she just signed it

Q She, in fact, was one of the women that was in that immediate area --

A Yes.

Q -- during the entire conversation?

A Yes.

Q All right, now, do you recall the time that Margaret

CSA Reporting

Passannante returned to the company after her last day of work to pick up her pay check?

A I don't recall the specific day. It must have been after the 9th -- no, it may have been the 10th or 11th.

Q Did you have any conversation with her at the time she came to pick up her pay check?

A She did ask me if there is going to be more work and I said that at this point I don't know and she best discuss that with Mrs. Murray, and she said that she hopes things get straightened out, and I said, "I hope so, too," and I gave her the pay, and that was the end of the conversation.

Q Was there any conversation between you about the Union?

A No specific words about the Union. I assumed she meant "straightened out," that she was referring to the Union problem, but we didn't discuss it; just my assumption.

Q You mean by her statement you just testified to she said --

A Yes, she said that things will straighten out soon, and that's what I assumed she meant.

Q Did you offer her any wage increase or make any promise to her of a future wage increase?

A No, there was never any reason to discuss wages or anything else. First of all, we had to get work to get started again.

MR. SCHER: I have no further questions.

FURTHER RECROSS-EXAMINATION

Q (By Mr. Weinrich) When did your conversation with Margaret Passannante take place?

A I think I stated it was sometime after the usual pay day, which is Wednesday. That would have been the 9th. It may have been the 10th or 11th. I don't recall the exact dates.

Q She was laid off at that time, is that correct?

A As far as I know, yes.

Q And she had asked her --

A When you say she was laid off, I think the situation was that it was still a pending situation, that she was on demand call, and if more work would have come in we would have called her back. If we had no work, she wasn't to be called back.

Q All the people on layoff were subject to being called if more work was available, weren't they?

A That's correct, but her in particular, because that was the basis of her employment.

Q You don't know that through conversations with Mrs. Passannante to you, you only learned that from your wife?

A I was present when Mrs. Passannante was interviewed.

Q But she was looking for work. Did she ask you if there was work at that time?

A "When will there be more work?"

Q And you replied --

A That I don't know.

Q And that was the end of the conversation?

A No. I said, "You should refer to Mrs. Harkavy," because she handled that, all those operations.

Q Is that when the conversation ended?

A Well, I don't know the sequence, whether she asked, "When do you think things will straighten out," whether she asked that first or last.

Q Are you sure who said that, asked that?

A Yes, I'm certain.

Q You are certain that --

A She --

Q -- she said it?

A No, she asked, "Do you think things will straighten out?" I said, "I hope so."

Q Who made the statement during that conversation that there will be work as soon as this thing is straightened out?

A No one made that statement.

Q Where did the conversation with Carmen Gonzalez and you and your wife take place?

A The conversation took place in the office -- I had one conversation at her work station when I presented the paper to her, and the second conversation was in the office.

Q Was your wife present during the first conversation?

A I don't believe so.

Q Was your wife present during the second conversation?

A Yes, she was. In fact, Carmen came in with her, into the office. Carmen was in a distressed condition. She was sobbing and very upset.

Q You don't know if they spoke together before they came in or not, do you?

A Well, I assume Carmen didn't come in, volunteer, you know, more or less on her own just walked into the office. She must have asked Mrs. Murray.

Q Mrs. Murray might have asked her?

MR. SCHER: Objection.

JUDGE HERMAN: Overruled.

A I don't know.

Q (By Mr. Weinrich) You don't know what happened before they came into the office?

A No.

Q How long were you in the office, both of you, and Carmen Gonzalez?

A Oh, about ten minutes, I'd say.

Q During that period, both of you spoke, both you and Mrs. Harkavy --

A Yes, mainly consoling her.

Q -- to Carmen Gonzalez?

A Yes.

MR. WEINRICH: No further questions.

MR. SCHER: No questions.

JUDGE HERMAN: You are excused.

THE WITNESS: Thank you.

(Witness Excused.)

MR. SCHER: Your Honor, Respondent rests its case and at this time renews the motion made at the completion of the General Counsel's case for the dismissal of the Complaint in its entirety for all of the reasons given at that time, which I would like to be deemed restated at this point, and for the additional reason that even if the reason for the denial of the motion at the completion of the counsel for the General Counsel's case was that a prima facie case had been made by the Government, that the evidence that's been adduced in defense against the allegations contained in the Complaint, has pushed the evidence back over the line and will not support any of the allegations in the Complaint.

JUDGE HERMAN: The motion is denied at this time. The case will be decided on the written record.

Does General Counsel rest?

MR. WEINRICH: General Counsel rests, Your Honor.

JUDGE HERMAN: Do you want to make closing statements at this time or are you going to save yourselves for the briefs?

MR. WEINRICH: Well, Your Honor, I think that because of the lengthy documentation in this case, that although it is my usual practice and the Office's usual practice to make closing arguments, I could not effectively do so at this point because I could not effectively review the documents, and since a brief will be necessary anyway, I will not.

I made a lengthy response to my adversary's motion to dismiss at the end of my case. I stand on those things.

I further state that, if anything, our prima facie case has become stronger based on the documents and evidence introduced and based on the credibility or lack of credibility of Respondent's witnesses, but anything further, I think, would really just delay this proceeding and would not be effective because of the documentation.

JUDGE HERMAN: I take it you share that view, Mr. Scher

MR. SCHER: Not for those reasons. I think that, in view of your ruling on the motion, that we'll argue the merits of this case in a brief.

JUDGE HERMAN: Very good. The hearing is closed.

The briefs will be due in Washington on April 3.

(Whereupon, at 6:25 o'clock P. M., the hearing was closed.)

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BEFORE THE NATIONAL LABOR RELATIONS BOARD

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In the Matter of:

SOLBORO KNITTING MILLS, INC., : Case No.

: 29 CA4058/4571

-and-

:

LOCAL 107, INTERNATIONAL LADIES'
GARMENT WORKERS UNION, AFL-CIO :

- -x

16 Court Street
Brooklyn, New York
October 4, 1975

The above-entitled matter came on for hearing at 11:15 o'clock A.M.

BEFORE:

IRVING M. HERMAN, Administrative Law Judge

APPEARANCES:

HAROLD R. WEINRICH, ESQ.,
Counsel for the General Counsel

JAMES LITTON, ESQ.,
General Counsel, ILGWU
1710 Broadway
New York, New York 10019

RAINS,POGREBIN & SCHER, ESQS.,
Attorneys for Respondent
210 Old Country Road
Mineola, New York
BY: MARTIN SCHER, ESQ., of Counsel

GASPAR SCIACCA, Organizer, Local 107

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JUDGE HERMAN: Off the record.

(Discussion off the record.)

JUDGE HERMAN: On the record.

MR. WEINRICH: Your Honor, at this time General Counsel offers into evidence the following exhibits with the following explanation by stipulation of the parties:

General Counsel's Exhibit 22, a request of Grace Rugolo for recall, dated June 23, 1975.

Respondent's response to Grace Rugolo, dated July 1, 1975.

The request of Donna Moravec --

MR. SCHER: Which is Number 23?

MR. WEINRICH: I am sorry, the response is Number 23.

As General Counsel's Exhibit Number 24, the request of Donna Moravec for recall, dated July 14, 1975.

As General Counsel's Exhibit 25, a letter to Donna Moravec signed by Murray Harkavy dated June 30, 1975.

As General Counsel's Exhibit 26, the request of Mary White for recall.

As General Counsel's Exhibit 27, the request of Margaret Passannante for recall.

The request of Mary White is dated July 15, 1975, and the request of Margaret Passannante is dated July 21, 1975.

In accordance with the agreement reached with Respondent, the record should note that the letters -- the letter of Mary White, General Counsel's Exhibit 26, and the letter of Margaret Passannante, General Counsel's Exhibit 27 were not answered.

JUDGE HERMAN: Nor was the letter for Moravec dated July 15th?

MR. WEINRICH: Nor was the letter for Donna Moravec dated July 15th.

MR. SCHER: Correct.

MR. WEINRICH: However, there is a letter to Donna Moravec dated June 30, 1975.

General Counsel offers as General Counsel's Exhibit 28 the payroll records of the Respondent for the year 1975, and specifically offers the records for the payroll week ending May 17, 1975, and continuing through the last payroll period or the last payroll week recorded in the book, that being October 4, 1975.

The record should also note that prior to May the 17th, 1975, no employees in the classification in issue here were recalled by the Respondent.

Concerning the allegation in the complaint contained in paragraph 8, General Counsel at this time would move to amend, with the consent of Respondent, to reflect that advertisements as alleged in paragraph 8 also appeared in Newsday during the month of August and September, 1975.

In connection with paragraph 8 of the complaint, General Counsel introduces into evidence Exhibit 29, which contains advertisements of the company which appeared in the June 6th, 10th, 12th, 13th, 14th and September 26th editions of Newsday.

JUDGE HERMAN: This is all one exhibit, 29?

MR. WEINRICH: Yes.

JUDGE HERMAN: Is the ad identical?

MR. WEINRICH: No, there are some changes in the ad, depending upon the date, Your Honor.

JUDGE HERMAN: You don't intend to refer,either of you, to any of these individually, because if you do we should have separate numbers for them or sub numbers?

MR. WEINRICH: Okay.

Why don't I number them --

MR. SCHER: A,B,C,D.

MR. WEINRICH: 29A through F, the various letters corresponding to the chronological order of advertisements.

JUDGE HERMAN: Very good.

MR. WEINRICH: It is requested that the various exhibits offered be admitted into evidence, Your Honor.

MR. SCHER: No objection.

JUDGE HERMAN: They are received.

(Whereupon, General Counsel's Exhibits 22,23,24,25,26,27, 28, 29A through F as described above were received in evidence.)

MR. WEINRICH: General Counsel calls as its first witness Grace Rugolo.

Whereupon,

GRACE RUGOLO

having been called as a witness, and having been first duly sworn by the Judge, was examined and testified as follows:

JUDGE HERMAN: Be seated.

State your name and address.

THE WITNESS: Grace Rugolo, 8 Shore Avenue, Patchogue, New York.

DIRECT EXAMINATION

Q (By Mr. Weinrich) Mrs. Rugolo, I show you General Counsel's Exhibit 23 in evidence and ask you if you are familiar with that document?

(Handing to the witness.)

A Yes.

Q Now, is it correct that that document refers to a conversation between yourself and Mrs. Harkavy in

October of 1974?

A No.

Q Does the document refer to that conversation, speak of such a conversation?

A No.

Q Well, the document does refer to you or says that you used certain words to Mrs. Harkavy, is that correct?

A No, I did not use such words at all.

JUDGE HERMAN: The question was, does the document say that?

THE WITNESS: No -- oh, it does say that I used some fowl language on her, which is not true.

Q (By Mr. Weinrich) Do you recall any conversation with Mr. Harkavy in October of 1974?

A The only conversation I ever had with her was when she told me there was no one and then she -- if I recall, it must be still in the statements, that she was sort of getting on my nerves and [illegible]eddling me about, you know, sort of someone saying that I was a troublemaker and all that kind of, you know, conversation.

And I just says that, you know, as a person she was a good person, but as a boss she was not a very good boss.

That is the only thing I ever said to her about any kind of names, but I never once ever called her any type of a name or anything like that.

Q So during the course of your employment do you recall at anytime using what would commonly be referred to as curse words or vulgar languate to Mrs. Harkavy?

A No, sir.

Q Were you ever told that you were terminated or would not be reemployed because of the use of any such words?

A No, sir.

MR. WEINRICH: I have no further questions.

JUDGE HERMAN: Mr. Litton, do you have anything?

MR. LITTON: Not of this witness, Your Honor.

JUDGE HERMAN: Mr. Scher?

CROSS EXAMINATION

Q (By Mr. Scher) Mrs. Rugolo, do you recall having testified in the original hearing on the complaint in this matter some months back, back in January?

A It wasn't in January.

JUDGE HERMAN: It was in February.

Q (By Mr. Scher) Back in February of 1975?

A Would you please repeat that?

Q Do you recall testifying --

A Yes.

Q -- back in February of 1975?

A Yes, I do, yes.

Q And do you recall having testified that you had told Mrs. Harkavy that she was running a slave labor shop?

A Well, I said that she didn't treat her workers the proper way, and she -- well, I really can't remember what I said at the present time, right now, but I know I had said she was not a very good boss, she did not treat her workers right.

Q And did this conversation take place at your work bench?

A Yes.

Q And during the course of the regular day, is that correct?

A Yes.

Q Do you remember who was sitting along side of you?

A Yes, it was Joyce Brown.

Q And who else?

A That was all.

Q Was Joe O'Connell standing in the immediate area?

A No, she was not.

MR. SCHER: Tbat is all.

JUDGE HERMAN: Any redirect?

MR. WEINRICH: I don't have anything, Your Honor.

JUDGE HERMAN: You are excused, ma'am.

MR. WEINRICH: Your Honor, at this time General Counsel calls as its next witness Rita Harkavy.

Whereupon,

RITA HARKAVY

having been called as a witness, and having been first duly sworn by the Judge, was examined and testified as follows:

JUDGE HERMAN: Be seated.

State your name and address for the Reporter.

THE WITNESS: Rita Harkavy, H-a-r-k-a-v-y, 108 Keswick Drive, East Islip.

DIRECT EXAMINATION

Q (By Mr. Weinrich) Mrs. Harkavy, what position do you hold with the company?

JUDGE HERMAN: That is in the record already, we don't need a repetition of that.

MR. WEINRICH: Your Honor, I request permission to question Mrs. Harkavy pursuant to what was once Rule 43(b) of the Federal Rules of Civil Procedure, and the appropriate section in the new code of evidence with citation that I don't have at hand, through the use of leading questions, as she is an officer of the corporation.

JUDGE HERMAN: It is no longer Section 43(b)?

MR. SCHER: No.

JUDGE HERMAN: I know about the code of evidence but I didn't know that the rule number had changed.

I take it there is no objection?

MR. SCHER: No.

JUDGE HERMAN: Proceed.

Q (By Mr. Weinrich) Mrs. Harkavy --

JUDGE HERMAN: Mr. Weinrich, would you please stand over there (indicating)?

MR. WEINRICH: Certainly, Your Honor.

Q (By Mr. Weinrich) Mrs. Harkavy, there did come a time as of the payroll period ending May 17th, 1975, when the company resumed production and began to recall employees that were laid off, is that correct?

A Correct.

Q Is it also correct that new employees were hired by the company, employees which had never worked for the company previously?

A Correct.

Q And your payroll books and records would show the names, the dates and the hours worked by these employees, is that correct?

A Correct.

Q I am going to show you what is General Counsel's Exhibit 28 in evidence, and I ask you to go down the list of employees in the name-of-the-employee column, and tell us whether each employee is a recall employee or whether they are newly hired employees, and as to each employee the type of work they perform.

A May I -- I left my glasses on the table.

(Handing to the witness.)

A (Continuing) Thank you.

Would you like me to proceed?

Q Yes, I would.

A Richard Kilz, knitting mechanic.

Lawrence Harkavy, who was in training to be in a managerial position.

Ana Nemec -- would you like me to go down the list first, all the names, run down the names first, and then take each one individually and explain each position?

JUDGE HERMAN: Yes, each one individually.

THE WITNESS: Each one as I go along?

JUDGE HERMAN: Yes.

THE WITNESS: I left --

Q (By Mr. Weinrich) You stopped at Ana Nemec.

A Ana Nemec, operator, all phases of operation, every single machine in the plant she can operate.

Would you like any further information?

Q Go to the next one.

A Josephine O'Connell, floor help plus learning to sew, sewing machine.

Trained to learn certain operations on sewing machine, which is right now one single machine that she is learning.

Philip Kilz, presser.

Carmela Cacoperdo, floor help, trimmer, separator and all other phases on the floor, whatever is essential to floor help.

Mildred Eve, packer plus floor help.

Ron Flores (phonetic), steamer.

Q May I interrupt you a minute, Mrs. Harkavy?

Is it correct that as to all the names that you mentioned, ending with Mildred Eve, these are people that have been recalled to the company?

A Correct, these are all senior people.

Q As you go on now will you also indicate if the names you mention are newly hired people?

A Newly hired, correct.

Would you like me to say who was present at this moment, at this time, or should I --

Q Well --

A Because some of them are not employed.

I mean, they are listed here but they are no longer with the company.

JUDGE HERMAN: You can indicate the date of their hire and separation?

THE WITNESS: Date of hire and separation, okay.

A (Continuing) Then there is Ron Flores, number eight.

JUDGE HERMAN: Off the record.

(Discussion off the record.)

JUDGE HERMAN: On the record.

A (Continuing) Ron Flores, if I am pronouncing it correct, F-l-o-r-e-s, approximately three or four days, steamer.

Deidri Schoellig, steamer.

Doris Meyer, operator, approximately two or three weeks.

Ina May Wendolowski, separater, approximately five to six weeks.

Josie Maltaghati, old timer, eight to ten years with us.

THE WITNESS: Your Honor, may I have a correction here?

Philip Kilz, old timer, eight to ten years with us, and I did not indicate that, as a presser.

JUDGE HERMAN: We have other records in evidence, so we don't have to do that now.

We know that some of these people go back before this year.

THE WITNESS: But they were not employed as of last year, in that particular time in question.

JUDGE HERMAN: Well, if you have somebody there who was not included in your prior payroll records in evidence --

THE WITNESS: 1974, that is why I would like to stress that.

JUDGE HERMAN: All right.

THE WITNESS: That was Philip Kilz.

Okay, I will come to the rest.

The last one I mentioned -- I am sorry, where did I leave off at this point?

Q (By Mr. Weinrich) You started on Cacoperdo -- Carmela Cacoperdo.

A I am finished with Deidri Schoelling?

JUDGE HERMAN: You are way below that.

THE WITNESS: Doris Meyer?

JUDGE HERMAN: No.

THE WITNESS: I was below that?

JUDGE HERMAN: Yes.

THE WITNESS: Wendolowski, I think is correct.

Deborah Harkavy, labeler.

JUDGE HERMAN: What does that mean?

THE WITNESS: Label.

JUDGE HERMAN: Oh, label?

THE WITNESS: Label machine.

Julia Cerritos, -- I have Deborah Harkavy, approximately June through the end of August.

Julia Cerritos, up-to-date, operator.

Madelina Maenza, floor, f[illegible] help.

Josie Maltaghati, opera[illegible]d timer with us, approximately eight to ten years.

Betty Behunke, separator, approximately three, four weeks.

Elide Gasperi, operator.

I believe I missed a few questions here, which is Doris Meyer, she no longer works with us.

Ina May Wendolowski is no longer with us.

Anadelia Ortiz, approximately two or three weeks, no longer with us.

Q (By Mr. Weinrich) What type of work did she do?

A Steamer.

John Kaufman, steamer, presser, has been with us approximately four years.

Hermine Vampatella -- I hope I am pronouncing it correctly -- steamer, approximately a week.

Q May I see the book, please?

A Yes.

(Handing to Mr. Weinrich.)

Q I maybe mistaken, Mrs. Harkavy, but I believe that you may have left out the name of Felipe Arias.

A I am sorry.

Q What type of work?

A Knitter.

Q And Julia Delfino, what type of work does Julia Delfino do?

A Floor.

She -- Julia Delfino, she is no longer with us.

Q Now, as to the people you indicated were no longer with you, have these people been laid off for lack of work, are you now undergoing another lay off?

A No, these people were incompetent to handle -- some left on their own and some were incompetent and, therefore, they were released.

I would have to go through each and everyone individually to tell you exactly why or what.

Q But have you had a lay off for lack of work since you started production in May?

A Mr. Weinrich, we have not worked for nine and a half months, we just barely began the season, and the season is practically coming to an end right now.

JUDGE HERMAN: Your answer is no?

THE WITNESS: My answer is no.

Q (By Mr.Weinrich) Do you presently or have you had since May 17th employees doing the type of work that Donna Moravec performed as a separator?

A I am sorry, since May 17th?

Q Since you began production have people been engaged in the type of work that Donna Moravec formerly performed as a separator?

A Yes.

Q Have been people been operating the type of machines formerly operated by Grace Rugolo, Margaret Passannante and Mary White?

A Not White.

If you won't lump them together, I would like to take them individually.

JUDGE HERMAN: Go ahead.

THE WITNESS: Which one first?

Q (By Mr. Weinrich) Grace Rugolo?

A Grace Rugolo -- Ana Nemec operated that machine, yes, and other employees.

Josie Maltaghati, an experienced operator, yes.

Q And the type of machine?

A The Merrow Machine operated by -- that is the machine I am discussing.

Q The individual you just named was not an employee during the lay off last October 1974?

A Which individual is that?

Q Maltaghati?

A Oh, yes, she has been with us eight or ten years.

Q And she was on the payroll during the period of the lay off in 1974?

A She was under lay off, yes, in 1974.

I am sorry, when you say, "lay off," she took a leave of absence prior to the lay off, but she has returned year end and year out.

She was not under lay off, she has been an employee of ours for about eight or ten years.

Q But isn't it correct that that employee did not work during the year 1974, at all?

A Yes, she did.

Q Do you know how many weeks?

A Approximately a short period, she became ill or whatever, or for whatever reason.

Q Do you recall if it was three weeks that she worked in June of 1974?

A It was a short period of time, yes.

Q Do you have any Mauser Machines currently in operation?

A No.

Q Do you have labeling machines in operation?

A Yes.

Q Do you have Singer Machines in operation?

A No.

Q Do you have any single neddle machines in operation?

A No.

That would be the same thing.

MR. WEINRICH: I have no further questions.

JUDGE HERMAN: Mr. Litton, do you have anything?

MR. LITTON: Just a minute.

No questions, Your Honor.

JUDGE HERMAN: Mr. Scher?

MR. SCHER: No questions at this time.

JUDGE HERMAN: You are excused for now, Mrs. Harkavy.

THE WITNESS: Thank you.

MR. WEINRICH: General Counsel has no further evidence to introduce, Your Honor.

JUDGE HERMAN: General Counsel rests?

MR. WEINRICH: That is correct.

JUDGE HERMAN: Mr. Litton, do you have anything?

MR. LITTON: No, sir.

JUDGE HERMAN: Mr. Scher?

MR. SCHER: Yes.

Mr. Herman, I'd like to dismiss the complaint on the grounds that there has been no evidence brought forth today that indicates any support whatsoever for

AFTERNOON SESSION

1:50 P.M.

JUDGE HERMAN: On the record.

Proceed, Mr. Scher.

MR. SCHER: I am recalling Mrs. Harkavy.

JUDGE HERMAN: The oath you took earlier is still binding.

MRS. HARKAVY: All right.

Whereupon,

RITA HARKAVY

having been previously sworn, resumed the stand and testified further as follows:

DIRECT EXAMINATION

Q (By Mr. Scher) Mrs. Harkavy, on direct examination we had a stipulation between the counsel for the General Counsel and myself identifying the fact that you advertised for help in June, July, August and September, and if you recall in connection with the motion that I made to the Judge that the General Counsel's case be dismissed, he raised as one of the questions the fact that there were advertisements that you placed for openings,positions, where the work was the kind of work that could be done by some of the people that are covered by the complaint as not being recalled to work by you.

Can you go into the advertisements that you placed and tell us how you -- tell us what was the company's aim in those advertisements and did you have openings for all of those positions, and how did you come to name the positions that you were seeking in the advertisements?

A First, I don't recall exactly the names of the positions that I have listed in the advertisements, because I do not remember reading them.

Q Okay.

A So I would like to, if possible --

Q Yes.

MR. SCHER: Let the record show that I am giving the witness 29A through F, covering the advertisements in Newsday.

(Handing to the witness.)

Q I would ask you to thumb through them and explain those advertisements to us.

A May I just have the last question pertaining to the ads that you have asked me?

JUDGE HERMAN: You want him to repeat the question?

THE WITNESS: Yes.

JUDGE HERMAN: Well, the Reporter will repeat the question.

THE WITNESS: Just the last part of the question.

(Portion of the record read back by the Reporter.)

THE WITNESS: When we advertised we over advertised to begin with, regardless of the position.

JUDGE HERMAN: Would you please keep your voice up?

When you advertised you what?

THE WITNESS: When we advertised, help wanted ads --

JUDGE HERMAN: Yes?

THE WITNESS: I will indicate a particular machine which is familiar to the public.

For a Singer Machine, practically everyone knows what it indicates.

If I just seek floor help by itself, we find that people will answer, floor waxers, and if I indicate just steamers by itself, they will be steamers but unrelated to us.

So this will give us an indication, listing one or two machines, of people recognizing what kind of operation.

It indicates, pertaining to the sewing type of operation, that is number one.

Number two, many times we have a larger source and bigger flow of people and interview them on the phone, and it gives me a good indication whether this person is capable of doing multiple operation or just specific any one area.

Many times people are experienced in Singer, it could be Merrow, any type of machine in the industry, but is capable of handling more than one operation.

So that is why it is a guide for the public, to understand the ad.

It is just clarification, what type of operation.

JUDGE HERMAN: So you say that even though --

THE WITNESS: Even though I don't need --

JUDGE HERMAN: Even though you didn't need one or more specific classification of those you advertised for, you, nevertheless, did it because you wanted to show what kind of operation you had?

THE WITNESS; Correct, that it would be an indication to the public in itself, to run our ad.

I received many, many phone calls which do not relate to our business at all, it is not clear to the public.

Through many years of experience in advertising, this is what actually happens.

If I need floor help by itself, if I advertise for floor help, I will get responses from floor waxers, floor cleaners, floor polishing, it is endless, which is not related to our industry itself, and that would be related to steaming, or any other type of machine that is not clear to the public.

Q (By Mr. Scher) Now, is it true that a person who will call you responding to an ad --

JUDGE HERMAN: Don't lead her.

MR. SCHER: All right.

Q (By Mr. Scher) Can you explain what you mean when you say that people will call you in response to the ad and then you will find out other skills that they have?

What do you mean by that?

A Well, I don't like to drag people into the plant just for the sake that they are responding to an ad.

I interview them on the phone first, I do interview and seek out what type of skills they have, and if they have more than one or the particular skill that I need at the time, then I will ask them to appear in person and in person give them an application.

Many times that same person who appears, I will find out if -- find out I am able to train and is capable of handling multiple operations, not just one.

It has happened many times.

Q So that, in other words, sometimes will it happen that a person will answer your ad for a particular machine

A Correct.

Q -- and in your conversation you will find out if they can operate other machines also?

A Or are willing to operate other machines.

Sometimes people are specifying one single machine, that is the only one they will operate, and if I don't have the need for that machine I will not request them to come.

I may request them to come and fill out an application, but that does not mean that I hire them.

But a person who is willing and able and desires, I will then take them on those basis.

Q When you advertised for more machines, do you get a larger response to your ad?

A Yes, I do.

There is a larger source, more people will respond to that ad.

Q Now, since the time that you closed down your operation, your production last fall, the fall of '74, and began again, have you changed your operation?

A Yes.

Q How have you changed it?

A The machines that we had in the fall of 1974, I mean since we only had those machines, since Solboro was in existence in Oakdale, those four machines, our operation, has been changed to a completely different structure of knitting, different type of machinery.

Q What is the machinery that you use now?

A It is flat V-bed Jacquard machinery.

The machines --

May I continue?

Q Is that J-a-c-q-u-a-r-d?

A Yes.

Q Would you explain what kind of machinery that is?

A Flat V-bed Jacquard machine is -- well, I would like to go back for one moment to the old machines which are still not operating yet, they are still idle.

Q What machines are those?

A PAP and circular machines.

Q Incidentally, are you using any Singer single neddle machines now?

A No.

Q And are you using any Mauser Machines now?

A No.

Q Do you do labeling now?

A Yes.

Q To the same extent that you did it previously?

A Yes.

Q Labels?

A Yes.

Q Okay, go back to explain the V-bed Jacquard machine.

A Well, the flat V-bed Jacquard machine is a very much slower producing machine compared to a circular machine.

Would you like me to go in techincal terms to explain the whole machine?

A circular machine is a 16 thread machine which turns 12 times the speed against a V-bed Jacquard machine, which only has two feeds, then, therefore, is a very, very slow producer,.compared -- comparing also the circular machine against the V-bed Jacquard, there is less work involved in certain preparations for finishing product against the V-bed Jacquard machines, and that is mainly by floor help.

The circular machines need for less preparation to go into production, against the V-bed Jacquard machine..

I could clarify it by simply saying --

Q Yes.

Are you familiar with the July 21st issue of the official publication of the National Knitted Outerware Association called "Knitting Times"?

A Yes.

Q Now, there is an article in this issue about Solboro's V-bed Jacquard units and your new style of operation.

Have you read that article?

A Yes.

Q Is it an accurate representation of the current production operation at Solboro?

A Yes, it is.

MR.SCHER: All right, I will attempt to make photostats in the building here today and supply them for the record, but I would like to offer this as an exhibit.

Unfortunately, I don't know what the next number exhibit would be in this case for the Respondent.

JUDGE HERMAN: Off the record.

(Discussion off the record.)

JUDGE HERMAN: On the record.

MR. SCHER: I would like to ask that this be marked as Respondent's Exhibit 7 --

JUDGE HERMAN: You mean 8?

MR. SCHER: I am sorry, Respondent's Exhibit 8, and I want to offer it into evidence.

(Article described above was marked as Respondent's Exhibit 8 for identification.

JUDGE HERMAN: Does that make reference to Solboro by name?

MR. SCHER: Yes, it does.

Q (By Mr. Scher) Now, Mrs. Harkavy, General Counsel has introduced today as Exhibit 26 a letter to you from Mary White dated July 15, 1975, in which she indicates to you that she saw your ad and is ready, willing and able to report for work.

Did you respond to that letter?

A No, I did not.

Q And can you tell us why?

A Mary White was incompetent.

I have indicated prior, I have tried -- she worked with us, I am sorry, let me -- Mary White worked exactly 26 working days with us on a trial basis, that was nine and a half months ago, maybe that is a little longer --

That was nine and a half months to the date that I received the letter.

Mary White was, I have tried her on practically every machine in the plant, she was incompetent.

I have indicated that prior, I am indicating it now again.

Q When you say you indicated it prior, what do you mean?

A At the prior hearing about her incompetence.

Would you like me to go through all the operations, the phases that I have tried her on?

I will be glad to do that.

Q Well, let me see if I can summarize it and you can then --

JUDGE HERMAN: No.

MR. SCHER: All right.

Q (By Mr. Scher) When Mary White --

MR. SCHER: Can we go off the record a moment?

JUDGE HERMAN: Off the record.

(Discussion off the record.)

JUDGE HERMAN: Back on the record.

Q (By Mr. Scher) When Mary White was hired by you, did she make any representations as to any particular skills that she had?

A Yes, she did.

Q What representation did she make to you?

A She claimed that she was an experienced Merrow Operator.

Q What was her record in performing for you on the Merrow Machine?

A I hired her on those basis, at that time, as an experienced Merrow Operator.

I put her on that Merrow Machine, the first day, and she could not operate the machine, she was a complete amateur..

In turn, I placed her on a lesser, simplier machine and tried her.

She could not handle that machine either.

After taking her off that machine, she came to me and requested could she return to the Merrow Machine, she would not like to lose her speed, would I give her a chance, and I did.

I placed her, put her back on the Merrow Machine.

Mary White, I did not keep her long because she absolutely was bluffing about that machine, completely.

She was a complete bluffer, about her capabilities on that machine.

With that I asked her, why Mary White is presenting herself as an experienced operator, since she had told me if she is a beginner I would take a little more time and patience and I will train her fully, and I have done in the past, I will take an inexperienced person and train them, and I do it today.

JUDGE HERMAN: Will you sit down.

A (Continuing) I took Mary White -- Mary White answered me when I presented that to her, her incompetence, and she answered me that she was --

I asked her what she did before, sorry, and she answered me that all her life she worked in some managerial position and she was, all her life, training people in that position, and she was tired of being pushed around.

The men she trains them, she was tried of being shoved around, lost that position and, therefore, she decided to work with women only, and that is the reason she went into this field.

So I asked her, "are you a women's libber?"

And that was my point of sort of breaking a job, from that point she said she needed a job desparate and I should give her a chance and I have.

I have tried from that point on to place her in each operation, taking her from machine to machine.

On those 26 days I tried her on every single operation.

The final operation, which is the most simpliest machine, and that was the Mauser and labeling.

Q Now, if she had been rehired by you, would you have to put her on the Merrow Machine?

A Absolutely not, she could not handle that.

That is the most intricate machine in our plant.

I took her off immediately because that ruins the machine.

She ruined enough merchandise already at that time, and I took her off, I had to repair it, daily.

It was a daily question with me, repairing her work.

It was brought to my attention after every single day, at the end of the day, what she ruined, specifically on the Mauser, because at that time that was the machine she worked on, that was the most effective -- it affected our business at that time, because it happened that many orders were cancelled and weren't in progress, and being cancelled which we had tremendous pressure on.

I knew it in advance, and the pressure was on us tremendously, and it was the last six days when she worked on these machines.

Q Are there occasions when people contact you to come back to work for you in a new season, when you don't hire them back?

A There has been occasions but the only people who have contacted me were employees -- they were in constant contact with me, yes, but it has happened, but very isolated cases, and I really don't recall anyone specifically, but those people who are interested in their position, and after each lay off I instruct each man every individual to be in touch with me, and which they are, each and every person who is interested in their position.

Q Now, what do you do in a situation where someone contacts you and you don't want them back?

A It has happened once or twice, and I put it -- it puts me in a very, very impossible position, which I do not like to hurt people.

I would really take -- fully avoid the question of saying, "I don't want you back."

And I will just evasively answer, give them some evasive answer.

I am not crude, coarse, or I don't like to put anybody in that position, "you are finished because you are incompetent."

Q All right.

One of the employees who finished the 1974 production season with you and who is complained of in this complaint by someone you did not recall is Margaret Passannante.

A Correct.

Q Now, how long did Mrs. Passannante work for you in the last season?

A 12 working days.

Q Was she a full-time employee?

A She walked into our plant, requesting a job on a part-time basis.

She told me she was on social security, she is seeking a fill in job.

At the time, really, I did not need her, but as her application, as she indicated, that this is what she would like, since she only lives about five or six blocks or five minutes riding by car away from me, from the plant, that she would be very happy to have a fill in job, since she does know it is a seasonal job and she would like something, and with that my response was, on those basis I would like to hire her.

I will try -- I am sorry, I would like to try her.

I was extremely satisfied with Margaret Passannante's work.

She was an excellent operator on the Singer Machine.

Q I was going to ask you that, what kind of work did she do in that season?

A She put pockets on the Singer Machine.

That is more or less the only function on the Singer Machine that we use in the knitting industry.

Q Do you have any of that kind of work now?

A No.

Q I mean this season?

A No.

Q Was there anything other than the Singer Machine for putting on pockets that she could do for you?

A The only thing would be the Mauser Machine, if we have Mauser work.

And there is borders, to turn under approximately about a two inch process of sewing down the work, that would be Singer work.

That would be the only two operations that I could think of, as far as design is concerned that we would use the Singer Machine.

Q Do you have any of that work in the shop now?

A No.

The Singer Machine is rarely used in our plant.

There are occasions, depending on style.

Q Now, I seem to recall from the earlier hearing your testifying that she could also do labeling, if you asked her to do it, is that correct?

A Not quite.

What happened, I did not have enough work for Margaret Passannante on the Singer, when I did hire he because I did take her on a trial basis, I did like the idea, I id like what she did on the Singer Machi and I felt that I would like to keep her as a fill in for the season because the season was coming to an en when I hired her in September.

Q Was she able to do any labeling?

A I put her on the labeling machine one day or so.

Q Do you have any labeling work now?

A Yes.

Q Who does it?

A Ana Nemec, Jo O'Connell, my daughter did it up to the end of August.

I'm trying to think who else -- Elly -- I can't think of her name.

In any event, I have more than one person who has senority, who know the machine and who handle the machine.

That is the simpliest machine in our plant.

Q And if you had additional work, even though you don't have any Singer work, if you had additional work above and beyond the work that Jo O'Connell and Ana Nemec are doing now, would you hire Mrs. Passannante to do it?

A I don't see why not, I would do it.

Q There was testimony also -- I am sorry, there was alleged in the complaint that among the other people that you did not recall to work was Donna Noravec.

A Correct -- I am sorry.

Q Now, Donna Moravec, there is General Counsel's Exhibit -- by the way, with respect to Mrs. Passannante, General Counsel in the case has indicated that although there is a letter from Mrs. Passannante to you, there is no reply from you to Mrs. Passannante.

In Mrs. Passannante's letter she says that she saw your ad for about four weeks, this was the letter written by her on July 21st, she had seen your ad for about four weeks and she is ready and willing to work, "please inform."

Can you tell us why you didn't respond to her?

A The mere fact, the way she phrased that letter, I was very upset.

A woman who walked into my plant without any advertisement prior, to seek a job, and a person who is seeking a job makes it her business to look for a position, phone me, which we pretty much are isolated, we are not known, where we are located it would be difficult for us to find -- for them to find us without getting some address or some information or some advertisement, otherwise we do not have transients and people walking into the plant.

She walked in and sought a job, now after nine and a half months Margaret Passannante has not made one single effort at anytime to contact me, to request if there is work available, "is there anything available for me?"

At no time, with the exception of sending that letter -- not only that, but sending me a letter nine months later, reading that she saw the ad for four weeks in a row, and she is telling me, demanding, actually a job.

That is why I did not respond, I was outraged at that kind of an attitude.

It only looked like it was some kind of a set up to me.

It was outrageous, I absolutely refused to go into it beyond that point.

Q Yet if you had work for her you would have hired her back, right?

A She is an excellent operator, I can't deny that.

Q Okay.

Donna Moravec, there is a General Counsel Exhibit here which is a letter from Donna dated July 14th, in which she says that she is available and ready to report and please let her know as soon as possible if you want her.

And then there is an answer from your husband, Murray Harkavy, about two weeks later, in which she says that he knows of her conversation with you at the beginning of June, which she told you that she is going to Adelphi College and that she is not interested in returning to work, and Mr. Harkavy offers her every wish for success in her future career.

JUDGE HERMAN: Excuse me, as I understand your question, I think you have the times reversed.

You said something about Mr. Harkavy to her two weeks after her letter?

MR. SCHER: Yes.

I am sorry, you are right.

Let me correct the record in that respect.

Q (By Mr. Scher) There is General Counsel's Exhibit Number 24, which is a letter from Donna Moravec to you dated July 14th, in which she says she is ready and available to work, and please let her know as soon as possible.

There is another General Counsel's Exhibit, Exhibi 25, which is a letter dated June 30th from Mr. Harkavy to Donna, in which he talks about a telephone conversat between you and Donna.

A Correct.

Q In which Donna told you she was going to Adelphi College and she was not interested in returning to work for you and wishing her every success.

Now, let's go back to June.

How did you happen to have that conversation with Donna in early June?

A I began recalling help, senior help, as in progres and I believe that was Ana Nemec first, Jo O'Connell second, Carmela Cacoperdo the third, and I believe that would be the next -- I am not certain, but I believe that would be Donna Moravec at that time, which would be the first week, Tuesday of June -- the first week in June.

I recalled Donna Moravec that evening, all right?

Q Right.

A I had asked Donna to return -- may I track back one moment, please?

Q Yes.

A Donna Moravec was in touch with me indirectly prior to June.

Q About returning to work?

A Indirectly, about returning to work, requesting a position.

Q You mean through a friend of hers or what?

A No, through her case worker, her case worker which is from Skilled Unlimited.

Q Oh, yes, right.

Donna Moravec has a physical disability?

A Correct.

Q Okay.

JUDGE HERMAN: Is there something in the record about that?

MR. SCHER: I believe so, that she was an employee with a handicapp of some kind.

MR. WEINRICH: I recall nothing on the record on that.

THE WITNESS: May I correct that remark?

This is how Donna Moravec came to me, through Skills Unlimited.

JUDGE HERMAN: Well, I don't recall that in the record.

MR. SCHER: Well, it is not in the record?

MR. WEINRICH: No.

MR. SCHER: Okay, strike that portion...

I move to strike that portion of the response that has to do with Skills Unlimited, and the whole question of any pre-June contact.

JUDGE HERMAN: Well, no.

I think it maybe relevant to know whether she did make some attempts, rather Moravec did make some attempts.

MR. SCHER: All right.

Q (By Mr. Scher) So her case worker from Skills Unlimited contacted you?

A Correct.

Q And what happened?

A This was sometime in the spring, I would say around March or so, I'm not exact on the date, and she requested if Donna Moravec would be called back.

I said she is on lay off and as soon as the work will resume I will be contacting her, and I had contacted her as she was needed for that particular time.

Q That was the beginning of June?

A The beginning of June.

Q Okay.

Then what did Donna Moravec respond?

A Donna Moravec had refused the job.

She told me she was going to school, being trained for a business course, and she is full-time student and, therefore, she regrets but she is --

Then I wished her luck and well, that she is trying to advance herself.

Q All right.

Then did you hear from her at anytime up until you received the letter from her, the note from her in the middle of July?

A Not personally, only through the case worker.

That was not personally.

Q Now, the General Counsel Exhibit which is Donna Moravec's July letter, which is GC 24, is dated July 14, 1975.

Within a day or within a couple of days after that, after receiving that letter from Donna Moravec, did you get a notice from the New York State Department of Labor concerning her?

A I want to correct that for one moment, sir.

After Donna's refusal, I had reported the very next day to unemployment that Donna refused a position and could they send a replacement or just report in, and with that I received -- I was charged for subsequent two more weeks with Donna.

Q Mrs. Harkavy, I don't want to go into the whole background of the unemployment situation.

A Okay.

Q I am talking about now June and July.

A Right.

Q You received the note from Mrs. Moravec saying that she is now ready --

A Ready and willing and able, correct.

Q Okay.

Now, two days after that did you receive a notice from the New York State Department of Labor?

A Yes, I did.

Q Is this the notice that you received?

(Handing to the witness.)

A Yes,sir.

MR. SCHER: I would like --

JUDGE HERMAN: You are showing her --

MR. SCHER: I am showing her a notice to employer that client is eligible, dated July 16th, 1975, from the New York State Department of Labor, addressed to Solboro Knitting Company.

JUDGE HERMAN: You want it marked?

It want it identified as an exhibit?

MR. SCHER: I would like to have it identified as Respondent's Exhibit Number 9.

(Notice described above was marked as Respondent's Exhibit 9 for identification.)

MR. SCHER: I want to offer it in evidence.

JUDGE HERMAN: May I see it?

Do you have any objection?

MR. WEINRICH: I have no objection.

JUDGE HERMAN: It is received.

(Document previously marked as Respondent's Exhibit 9 for identification was received in evidence.)

MR.SCHER: All right.

Q (By Mr. Scher) Now, at the time that you received the note from Donna -- well, let me go back --

What kind of work was Donna doing for you in the previous season?

A Separating.

Q At the time that you received her note indicating that she was available to work this would be the middle of July, who was doing separating work for you?

A I hired a new person which was Ina -- I believe it is Ina Wendolowski.

Q When you say you hired a new person, when did you hire that person?

A Immediately after Donna's refusal I placed an ad and she answered the ad.

Q Back in June.

A Back in June, and she answered the ad for that position.

Q Was Wendolowski the only person doing separating?

A No, I had senior persons doing it.

Each and everyone -- in fact Ana Nemec, Jo O'Connell, Carmela Cacoperdo -- I can't think of anybody's name at the moment.

Q At the time that Donna decided that she wanted to come back in July, wrote to you in July, did you have any additional separating work that you could have her do?

A No, there is no additional, this is just one.

As a matter of fact, many times it does not even fill a full day of separating and, therefore, the floor help will pitch in -- either they will do some full work or just do that particular job.

Q Is it your testimony that you did not need her?

A At that time, no.

It was not too late, I replaced Donna once she refused the job.

Q All right.

Now, a fourth person named in the complaint as a person that you have not recalled is Grace Rugolo.

Do you recall on her direct testimony she indicated that she had had a conversation with you in which she said nothing significantly more than the fact that you are not a good boss, to use her words, and she indicated to her recollection the only other employee in the area at the time of that conversation was Joyce Brown.

Now, can you recall -- first of all, you wrote a letter to her which has been introduced as General Counsel's Exhibit 23, which is the response to her letter to you asking to be recalled, which is General Counsel's Exhibit Number 22.

In her letter to you she said she is ready and able to report back to work, and that she trusts she will be hearing from you in the near future.

In your response to her you talked about an incident with her in which she used certain language and which you felt made it impossible for you to hire her back.

Can you, as best you can recollect, tell us when that incident took place, where it took place, what employees if any were in the immediate area and precisely what Mrs. Rugolo said to you?

A That was the last day of her employment, it was in the afternoon.

Early morning, the way I understood it, she had a brawl with some of my employees and she was extremely keyed up all day.

So I just took -- usually Jo O'Connell hands out work.

I instructed Jo O'Connell to give such and such work to such and such operator.

With that she -- I knew there was a tempest brewing that is the only word that I can think of at the moment, between the employees that she had insulted, some of them, and abused them early in the morning.

So I said, "I will hand the work out to her."

I brought the work over to her, personally, and that is completely personally, directly she insulted me, abused me, and I am trying to think how it -- how painful that kind of abuse to me, because it brings back many, many, many bitter memories, ugly memories.

MR. WEINRICH: Your Honor, I move to strike the witness' testimony as to her personal feelings and ask her to limit her testimony as to what took place.

JUDGE HERMAN: I will overrule the objection.

I deny the motion.

Go on.

THE WITNESS: I would like to bring back -- it is extremely emotional, I am not an involved person, but I do detest profanity and I find it very, very difficult, even to repeat the words that this woman used, but I am in a position to defend it, and I would like to go into it a little deeper, sir, why I will not accept such vulgarity, abusive language, and I don't know if I can even use the word, but I make an effort.

When someone will call me an f......SOB, I honestly -- I'm unable to explain, I am unable to even pronounce it.

I can write it down, but I can't pronounce it.

JUDGE HERMAN: Go on.

THE WITNESS: This woman had used that outrageous outburst, who threw out that, who up until today was a perfect model operator, without any question in my mind, for no apparent reason I was hurt, and she attacked me.

And I will not, from my past history that I have gone through in my life, and has been recorded and has been recorded now, in the newspapers nationally, as of August 15th, 1975 -- excuse me, sir, but I am very emotional about this -- I am very disturbed about it, but I would like to lead up to the answer why I am hurt.

JUDGE HERMAN: I am having trouble following you, Mrs. Harkavy.

You mentioned some newspaper article?

THE WITNESS: Yes, sir.

I would like to bring that to the point, why I am so emotional and so hurt, and I cannot forgive such abuse, such vulgarity, that she used such profane language, with such language, Grace Rugolo, to me personally.

JUDGE HERMAN: What is this newspaper article that you referred to?

THE WITNESS: May I take it, please?

May I show it to you?

It has no bearing, but I would like --

MR. SCHER: About the concentration camp?

THE WITNESS: Yes.

MR. SCHER: I don't have it.

THE WITNESS: It is right on the desk.

Sir, the reason I am saying this, this is my history, that I have taken a statement, and it does not pertain directly to the case, it only pertains to me as a person, as a human being, that I will not be abused by an operator.

I don't care if she is made out of gold, and if she can make or sew or do anything, or any person, or anyone, what I would take such vulgarity and such abuse, that this woman has abused me personally, and I would like you to see this article, and this is why I feel so strongly about it, that this woman, I will not accept that kind of an attitude, and I feel when she turned and walked out in an abusive huff, using profane f......SOB language, plus to me, to me, sir, and walking out that day, the last day, let alone return two days later and insulting my husband in front of the whole plant deliberately, I cannot accept that and I cannot accept that from her.

And since her memory is so short, I want her to notice --

JUDGE HERMAN: Mr. Scher, if that newspaper article is relevant I suggest that you go through the usual way of getting it in.

If you think it is not relevant, then withdraw it.

MR. SCHER: Perhaps I could just offer a one or two sentence summary of what --

JUDGE HERMAN: No, that wouldn't be accurate.

Q (By Mr. Scher) Mrs. Harkavy, I don't want to get into that.

A All right.

Q Tell us what, as best you can recollect, who was sitting in the area, what employees were in the area?

You heard testimony there was Joyce Brown?

A Yes.

Ana Nemec, Jo O'Connell, Cacoperdo.

Q Were they at their work bench?

A They were all at their work stations, yes.

Q At their work benches?

A Right.

Q And we are talking about a section where the employees are approximately three feet from each other?

A Yes, and sometimes closer to each other.

Q Sitting at their work bench, at the machines?

A Right, you are right.

MR. SCHER: I have no further questions.

JUDGE HERMAN: We will take a recess until 3:00.

(Whereupon, at 2:50 P.M. a recess was declared and the hearing was resumed at 3:00 o'clock P.M.)

CROSS EXAMINATION

Q (By Mr. Weinrich) Mrs. Harkavy, concerning the advertisements that you placed in Newsday for help, You did, in fact, advertise for Singer operators, is that correct?

A That is not correct.

I only indicated some people will understand what type of operation we are, so they will know how to answer.

I did get constantly calls which did not relate to our field, that is the reason I indicate some form of recognition, so people will recognize the ad, and I had it under operators.

Q So, in other words, you when advertise for operators, Merrow, Singer, floor help, steamer, that is merely so that would be a way of identifying the type of operation?

A Sometimes I would advertise for that purpose too, that I do need some of those operators too, not always.

I mean, it varies.

It varies, we are in a fashion business and from season to season different things will occur that I may have different needs for different people.

I always indicate so that I have a pool, that have a larger source to pool from.

Q Is Singer the same as single neddle?

A Yes.

As far as I know that would be identified as the same thing.

Q So you could have advertised for a single neddle person for the same reason?

A The wording would be very much -- very much the same, but I think sometimes inexperienced people, and if I am seeking inexperienced people, especially for training for floor help, which is an inexperienced person, a person that has no skills, unskilled people, will understand what a Singer Machine does but will not understand a single neddle, because it is actually a trade terminology, where a Singer Machine, practical every woman has a Singer Sewing Machine.

Q Now, you could have achieved the same purpose, couldn't you, by just saying sewing machine operators rather than Singer Machine operators?

A No -- that is possible.

Usually I achieve it, I usually follow the advise of the newspaper people who have experience in advertising, how to track people, and usually I leave it up to them, how to word it, half of the time.

Q Now, isn't it a fact that they used Singer Machi and there are Singer operators in all phases of the garment industry, it is not just limited to sweaters, the Singer is a very popular machine, isn't it?

A I would say so.

Q So is a Merrow Machine, they use Merrow Machines in other forms of operation other than in the manufacture of sweaters, don't they?

A I am not too familiar with the other forms of manufacture in the field, I can only speak for my operation which is knitwear and sweaters, so I cannot answer that.

Q Are you familiar with that, that as to the Singer Machine, that that is used --

A Well, I feel just in general the public is familiar, uses the word Singer, it is known throughout the world, what Singer Machine means.

Therefore, any woman, any unskilled woman would recognize, she has a sewing machine, or a person who is seeking a steamer's job or a floor help job, it could be male or it could be female, do not understand what the word means, "steamer", since they are not in the industry, have never been in the industry.

That gives them an indication, an answer of what type of operation that is.

That way I don't get unnecessary calls which take up time and interviewing a person.

Q But there did come a time when you did adverti
for operators, floor help and steamers?

A Yes.

I would say so, it could be, and chat is one of the reasons I find that I keep rechanging, rewording, everytime,the ad, to attract certain people that I desire or I need.

Q Well, let me show you the ad in evidence, General Counsel's Exhibit 29F, the September 26th edition of Newsday, and ask you to look at the circled ad.

(Handing to the witness.)

A Even with the glasses I can't see.

Operators, floor help, steamer, will train if qualified, Oakdale vicinity, 567 0688.

Q Do you recall if after you placed that ad you got a lot of calls from people who had no idea what type of operation you were in?

A Specifically, I get all sorts of calls.

That particular day, no.

I don't even know what day it is.

No, I couldn't possibly, noway.

I just get calls.

Q Now, this article, Respondent's Exhibit Number 8 in evidence, does this adequately describe your new operation?

A Does this adequately -- does it adequately -- you want me to read the whole thing?

Q Well, you testified that you are familiar with the article?

A I am familiar with the article for the purpose, yes.

I would say it is a broad question.

That would be our new operation, our new form of operation, yes.

Q Now, I refer your attention to page 35 of that article, and specifically to the last paragraph beginning in the left hand column there, where it says -- it begins, "In general --"

Would you read that to yourself?

A Okay.

Q Now, isn't it correct that that paragraph makes reference to the fact that as part of your sewing operation you used Merrow Machines, four Seaman Mausers, some frame(phonetic) and Singer single neddle units for putting in the pockets or the like.

Isn't it correct that the article makes reference to the fact that you used those three types of machines in the operation?

A I would like to say that they didn't add the different types of machines I have in the place for different functions, and different types of functions that I had.

JUDGE HERMAN: Why don't you just answer the question?

A (Continuing) Yes, that is correct, but they did not list them all.

I have specialized machines, for the purpose of styling, yes.

Q And it -- is it your testimony that since you resumed operations with these new machines, the Jacqua Machine, the basic subject of the article, you have used neither the Mauser or the Merrow Machine?

A That is correct.

Q Who prepared this article?

Did you furnish information to the magazine?

A Yes.

Q And you were interviewed by the person who wrote the article?

A Correct, by the Knitted Outerwear Times.

Q And you make reference to those machines, althoug you weren't using them at the time?

A At the time this article was published we were not even in operation, just I think it was the first week we started to operate.

Q At the time the article appeared it was the first week --

A No, no.

Q It was the first week?

A No, no.

When we were interviewed and photographed.

Q But at that time you had designed your line and you were aware of the type of machines you were going to use, weren't you?

A Mr. Weinrich, when you say I designed the line, every single day of the week that is my business, to create business, and I have special machinery, not for the purpose -- this is a trade magazine, this is not for the public, to notify them what type of machinery I have.

I happened to be interviewed for the purpose, what I use the machinery for, and what type of machinery we usually use in our operation.

The interviewer was familiar with those machines, those he listed.

We have other machines that he is not familiar, that are not familiar to the trade.

We did not want to list them because it is so far removed from our own trade.

I have crochet machines which is far removed from our trade and it is other specialized.

I am a specialist house, with highly specialized merchandise.

We try to create and invent new machinery for different sources, and we try to use that machinery for which is not even familiar with the knitwear industr but I have them in the house because I like to have those machines for the styles.

And like I say, they do not even relate to the knitwear industry.

Q And these are all machines that you have in the house or in the factory since the resumption of your production in or about May of 1975, these new machine

A They were not new, they were in existence prior to 1975.

Perhaps I added another finishing machine, I don't recall adding anything -- finishing machines, I'm speaking of.

They have been in existence, sometimes are store on the side because of lack of space, but I do have t if there is a need for them.

Q Now, in the line that you have been producing si May of 1975, is it your testimony that none of the sweaters manufactured have pockets?

A Yes, they do not have pockets.

Q None of them have pockets?

A None of them have pockets.

Q And none of them have a stitching at the bottom?

A None of them have a stitching on the bottom.

Q For what other reason is the Singer Machine used?

A In my field, as I say, in all the years that I have been in business, that is the only thing that I can think that I have ever put that machine to use, no other reason.

I cannot recall of anything else that I ever put it to use, for any other purpose.

Q If the Jacquard Machine, if I am pronouncing it properly, according to your testimony is slower than the machines that you previously used --

A Correct.

Q And involves more preparation work than the machines you previously used --

A Correct.

Q -- for what purpose did you install them in the factory?

A For what purpose?

Q Yes.

A The old machines, this year happened to be obsolete, market wise, we were in a position, in a desparate position, in a situation, that in nine and a half months without being able to sew two cents worth of merchandise from the old machines, we had to take drastic action and drastic steps and put ourselves on the line and buy new machinery, which is marketable today, and it is entirely different machinery, which is very, very desirable today.

Q Now, the Jacquard is a knitting machine, is that correct?

A Correct.

Q So the major change in your operation took place at the beginning, with the knitting of the goods?

A Absolutely, it has to.

Q Now, the Jacquard Machine has nothing to do with sewing together the pieces, is that correct, it only knits the fabric, it still has to be cut following that

A No.

Your question would be very incorrect that it does have an affect, it absolutely does,because the Jacquard Machine is an extremely versatile machine which now, compared to the PAP circular, I have to involve myself even more, plus mechanics, plus other designs.

The concentration lies deeper in design of the fabric in the machine, because of the versatility of the machine against the circular machine.

Therefore, we have a rich fabric, rich yarn that the machine is capable of handling.

There is less labor involved, less operation, less -- in other words, not putting in the kitchen sink into a garment.

You are concentrating on the quality, the fabric itself and not design per se, but the design and style for the fabric.

So when you put the garment together it is rich looking, but that is what the market wants and that is what we are able to sell today.

Q But the fact that you need more preparation, more steps in the preparation --

A In one step, yes.

Q -- means that you need more floor help, is that correct?

A That would be correct.

Q Now, when you said that the circular needs far less preparation as against the Jacquard Machine, is that preparation before knitting or preparation after knitting?

A It is after knitting -- may I have that question again, because I can go into it a little deeper so that you can understand it.

JUDGE HERMAN: Would you like the Reporter to repeat the question?

MR. WEINRICH: No, I will repeat the question.

Q (By Mr. Weinrich) Do you recall testifying earlier during direct examination that the circular machine needs far less preparation as against the Jacquard Machine?

A Sir, circular goods, yes.

Yes, to some degree, and if you like me to go into it, I would be gald to give you an explanation.

Q Well, my initial question was whether the far mo preparation needed in the Jacquard Machine takes plac before or after the goods are knitted?

A Twofold.

Before there are separate steps, and after.

Q And all of these steps involve additional handli by employees, is that correct?

A Yes, unskilled employees.

Q Now, in your advertising you adverti[illegible] that you were willing to train people, is that correct?

A Correct.

Q And people that you hired were trained by you, i that correct?

A I do training, yes.

Q Now, concerning Margaret Passannante, you found Margaret Passannante to be a highly qualified employe is that correct?

A I found her to be a very skilled Singer operato yes.

Q During the tenure of her employment with the company, did she work any other types of machines?

A The only machine that I recall, when I hired he I did not have enough work for her, when she came in my plant I told her, "I do not have enough work on t particular machine, the season is coming to an end and I have very little pockets."

I tried her on that machine, she worked on that machine and she was excellent.

"I would love to keep you even for that period of time."

And, therefore, I put her on the labeling machine in order to keep her, to show her my intent and desire, that I was satisfied with her, and, therefore, I would like to keep her.

So I put her on the labeling machine, just to fill in the hours, the remaining hours that she was with us, until she was released October 3rd.

Q You did have labeling to do, you didn't make work for her?

There was work to be done, is that correct?

A No, I just replaced her.

I have people, operators in my plant who can operate that machine, and I just created, put a particular person who is operating on the label, put her some place else and put Margaret on that machine.

In the first place, the labeling machine, it is no more -- it does not require any more work in our plant than a hour a day, perhaps two hours, that is the most.

That is the most that I ever needed on the labeling machine.

It is a tiny, tiny label sewn on or tacked on, that is about the extent of it.

Whatever production we produced, the most a person can have is two or three hours a day, that is when we have the height of production, on that particular machine.

Q Every garment you produce has a label?

A I would say nine out of ten times, yes.

Sometimes, no, it has occurred when we have not put a label on it for various reasons.

Q Margaret Passannante was a trainable employee, is that correct?

A No, that is not correct.

Margaret Passannante stated to me that she would like a fill in job, and when I put her on the label machine, she then, herself, said,"I am too old. I am retired. I am tired, my knee hurts."

Even from the Singer Machine, which has to be -- we have our Singer Machine, we have put on a special mechanism on it that with the knee it cuts, that way we eliminated a certain process, brought it up-to-date, the Singer Machine.

She said, "even at this point my knee hurts me, to operate at the machine. I am not willing to learn a new machine, if you have Singer work. I am retired. I am on Social Security.

"I will be glad to fill in whatever you need me for," and that was the basis which I hired her.

That is the basis it remained.

I asked her to keep in touch with me, and that is the way it remained.

Q If you hired Margaret Passannante on the basis of a fill in employee, why did you find it necessary to create work for her?

A I didn't create it.

I liked her very much, when she came in and when I knew the season was coming to an end, and I found her to be -- in the first place, she lives only five minutes away from the place, the most convenient person.

I was delighted, I was simply delighted to have a person walk in like this and ask me for that type of job.

There have been occasions when we needed someone like that, I don't always have a full-time job for everybody, but I felt in her situation, and I have other people like her, it has happened in the past, that I would be delighted to have her, because that removes from me a certain obligation to an employee.

It actually removes me from that position -- that

I am obligated in any way, in any form, to make sure t this person is employed by me.

This gives me the option and it also gives her the option to come and go as she pleases.

If she decides that she does not want to come in on Monday, because she does not feel well, or she is retired and would like to take a week's vacation, it gives me the option and it gives her the option the same way.

Q But you testified that you hardly had any pocket work for her to do, so, therefore, you moved her around and moved other people around in order to give her work by labeling?

A That is incorrect.

My testimony is, and that is incorrect, our plant is a very small plant -- are you referring now to last year, October 4th, is that what you are referring

We had a minimum of our people in our plant, and I design garments, that does not necessarily mean that I have full day's work for each person on that particul design.

In order for that person to have a full time job, or to make a full day's work, I will train and try to put them on different machines.

Some people were capable of doing that, and that is exactly what I attempted to do with Margaret Passannante.

I was so satisfied with her, she was competent.

Should I, for anytime that I design a new garment and if I will need Singer work, I have the opportunity to bring Margaret back.

When I tried her, it was only a question of trying her for one purpose, just the way she presented herself with the application.

That was the reason I tried to create even a few week's work.

Secondly, I did not anticipate a cancellation at that time, when Margaret Passannante walked in.

The cancellation happened to come two or three weeks later -- two weeks later, I think, at an abrupt end, which I already had a line prepared and hoped to sell it, and I had designed Singer work for that line, which I would have had for Margaret, had the line been sold.

Q Now, you testified that you had considered Margaret Passannante's request to return to work a set up.

What do you mean by, "a set up"?

A Well, every single employee of mine, whenever they are relased or are under unemployment, or the work ends, when a season ends, when there is no longer any work, I will state to them -- to each and every employee, I will question them whether they are eligible for unemployment, if they are new.

If they are old, I know it and I will tell them, "please keep in touch."

And when I did not hear from Margaret Passannante in nine and a half months, not one single phone call, as this woman made not one effort, not one attempt at anytime to make, concerning her employment, which even the unemployment instructs people to call the empl to see if there is any work available, now this woman has -- I received a registered letter, receipt requeste "I would like to know why in four weeks time I have not been recalled to work?"

Now, you tell me, a woman who reads newspapers, four weeks in a row, who walks into my place without any advertisement and comes into my place, and then send me a registered letter demanding work, when she worked 12 working days for me, what are her obligations to me and what are mine to her?

I would like to know that.

Q Is that what you mean by set up, that you don't know what your obligations were to her?

A No, I felt it was a set up.

Q By whom?

A I don't know.

Intimidation by Mr. Sciacca or the union.

Q Was the reason that you didn't take her back because you felt it was a set up?

A No, because I have no work for her.

Q During the period of time in which you testified that Margaret Passannante didn't contact the company, does that include the conversations she had with your husband by telephone?

A Say it again.

Q In the weeks following her termination --

A I am sorry, I didn't hear your question.

Q When you testified that Margaret Passannante made no contact with the company during the entire period of her lay off, does that include the conversation that she had with your husband by telephone, during the two week period after she was laid off?

A She has not contacted me every since then, no.

Q You mean the last time --

A The last time -- that I don't recall, whether she spoke to my husband or not, I do not know, my last conversation with Margaret Passannante was October 3rd when she left.

I had no longer work for her, that was my last conversation with Margaret Passannante.

No other conversation took place between me and Margaret Passannante, nor as far as I know with my husband calling in concerning her job.

Q Now, you testified today and in the past, at hearings concerning this matter, that it is your standard procedure when laying off employees to tell them to keep in touch?

A Absolutely.

Q What did you tell Mary White when you let her go?

A I don't remember if I asked her for qualifications, whether she is qualified for unemployment.

I am almost certain I asked her that, because she was with us only 26 working days.

Q So you don't know if she was qualified?

A That is the reason I would ask her, because she was with us a short period of time, I will ask new people whether they qualify.

Old timers that are with us, I know they qualified, but new ones, I will instruct them to do so.

Q And did you tell Mary White to keep in touch?

A Mary White asked me that day, when I released her, to order some tools for her, particular tools.

I ordered them for her.

It happened to be a strike at the time with UPS, and Mary White called, I would say once or two times about those tools, and the tools were lost.

I received them maybe six months later, when they found them, which it was a small little box and it was stuck someplace in a garage, and that was the only time Mary White was in touch with me, no other time.

I would say that was two weeks after the lay off, and I would say at no other time has she ever been in touch with me since.

Q My question to you was whether you told Mary White, like you told all the other employees that you laid off, to keep in touch?

A Did I?

I do not recall.

I do not recall if I did or did not, it is possible but I do not recall.

It is very possible, I don't know, for the very reason -- just for the tools, I would have to have given her an answer.

Q Did you tell her that she was being let go for incompetence at that time?

A No, I did not.

Q How many machines did she work on during the course of her employment?

A Mary White presented herself as an experienced

Merrow Machine operator.

Q Well, you testified to that.

How many machines did she work on?

A I would say I had moved Mary White to practically every operative machine at the time that we were working on,, on those styles, and I would say at least, at least four, in that period of time.

Q And according to your testimony that was 26 working days?

A Correct.

Q How many additional unskilled workers did you hire since May of 1975?

A I had quite a few transients that I hired and fired, so I would have to go through the records because I don't even remember the names.

Q And the unskilled workers were the workers that operated no machines?

A Correct.

Q At what rate of pay did you start the unskilled workers?

A I would say at 2.10 an hour.

JUDGE HERMAN: How much?

THE WITNESS: 2.10.

Q (By Mr. Weinrich) Did you ever have Mary White do floor work while she was employed there?

A No.

Q Do any of the sweaters you are producing have borders?

A Pardon?

Q Do any of the sweaters you are producing now have borders?

A No.

Q Do you make any coat type sweaters?

A No.

Q Do you make any sweaters with buttons?

A No.

Q What do you make?

A Just what you see, this is the latest design, (indicating).

Q And how do you attach the sleeves?

A Merrow.

Q And the collar?

A Merrow.

Q And the bottom?

A Merrow.

Q How many Merrow Machine operators do you have?

A Right now?

Q Right now.

A Josie Maltaghati, Ana Nemec and Cacoperdo.

Q You are only making one style of sweater?

A One type of work, that is Merrow work, nothing else, and that is not style.

Each style that I make is concentrated in fabric, not necessarily one style, one type of finishing.

It is just one machine being used for that, that is Merrow.

Q Is it your testimony you are only using Merrow Machines now?

A As of now, yes.

Q Have you used any other type of machine during the period from May 1975 until the present time?

A No -- well, any other type except for label, which practically every garment gets a label.

Q What type of machine is Jo O'Connell operating?

A Jo O'Connell, I do not have sufficient work for her on the floor so she works the label.

Q And Grace Rugolo, according to your testimony today, was a competent Merrow Machine operator?

A I didn't say competent, I said I was trainig her.

Q So it is your testimony that she was still in training at the time she was let go?

A No.

Grace Rugolo was a satisfactory Merrow operator.

Grace Rugolo was let go because of lack of work at the time, that was one of the reasons.

I did not specify time limit on training, or when I decide who is in tenure and who is not.

Q The incident you testified to concerning Grace Rugolo, when did that take place?

A The last day of her employment.

Q In the morning or the afternoon?

A In the afternoon.

Q Was that at the same time you had your conversation with her about Kay?

A Who?

Q Kay?

A I don't recall having any conversation with Grace Rugolo about anyone.

Kay happened to be with us for 27 years, if that is what you are asking me.

Q And you never had a conversation with Grace Rugolo concerning Kay?

A No.

Q Did you ever have a conversation with Grace Rugolo concerning the type of boss you were?

A She insulted me and abused me, if that is what you are referring to, yes.

She abused me and insulted me, the type of boss I am, everything under the sun, a slave driver, if that is what you are asking me.

Q Was that the same conversation in which she used the words --

A That is the conversation in which she attacked me, yes.

That is the same conversation in which she attacked and abused me, yes.

Q Did you fire her at that time?

A Did I fire her?

No.

Q You didn't say, "Grace Rugolo, you are terminated."?

A No, I did not say that.

Her work was finished at that time, the line of work was completely finished on that day, when this incident occurred.

Her outburst, her outcry, outrage --

Q Did you let her go for lack of work at that time?

A At that time I let her go for lack of work, plus the outrage that she took.

I was outraged myself at that point, I was hurt.

Q Were you present in the shop, on October 10th, 1974, the day when Grace Rugolo returned to the shop?

A Yes, I was.

Q And were you present when your husband had a conversation with her, with Grace Rugolo, when she was in the shop?

A Yes, I was.

Q And didn't your husband tell her at that time that she was not terminated, that she was only laid off?

A Correct.

Q And did that take place following the incident that you described in which Grace Rugolo supposedly called you every name in the book?

A Correct, but Grace Rugolo abused me two days prior, insulted me with abuses, vulgar, obscene language that she used, walked out in a huff.

The audacity of this woman to walk in two days later, into my plant, in an unauthorized place, where she knew she was not authorized to be there, when I saw her I would not even look at her, I couldn't care.

I turned to my husband and walked into the office and I said, "what is she doing here?"

And that is how he approached her and asked her what she is doing in that spot, for what reason, and that is how.

She, on top of that, she turned and abused him and insulted him, and she said, "you crook, that is exactly what I wanted, this is what I am looking for."

And walked out again with a big huff, that was the end of it.

Grace Rugolo, I did not see her until this meeting up here, February 18th.

Q And with all of that abuse, Mrs. Harkavy, isn't it a fact that your husband told her at that time that she was not terminated?

A Her work was terminated, there was no work for her.

It had to do nothing with the abuse.

This is what she is looking for, this is entrapment.

He didn't entrap her.

How come she does not say hello to him when she walked in a plant and announces herself?

There was no need for this kind of animosity, there was no reason to insult me and abuse me, but she turns around, abuses my husband, the president of this company, abuses him in front of the whole plant at lunch time, in front of all the people there, and this I will not take from anybody, in any place, in any course.

I have been so abused in my life, so much, that I will not accept it.

JUDGE HERMAN: Mrs. Harkavy, please stop repeating yourself.

THE WITNESS: I am very upset, I am sorry.

JUDGE HERMAN: But you have been repeating a lot ofthings which you have already said, there is no need for that.

THE WITNESS: Well, that was a very emotional moment, and when a person abuses someone, and counsel is pushing for that question over and over, which is an issue.

JUDGE HERMAN: All right, go on.

Q (By Mr. Weinrich) Didn't your husband repeatedly state on October 10th to Grace Rugolo, "I am not terminating your employment."?

A If that is what the letter says, that would be correct, yes.

Q I notice from your payroll records that Carmen Gonzalez is not working for the company any longer, is that correct?

A That is correct.

Q She was a Merrow Machine operator?

A Correct.

Q Is that correct?

A Correct.

Q And she had operated the Merrow Machine at the same time that Grace Rugolo did?

A Pardon?

Q She operated the Merrow Machine at the same time that Grace Rugolo did?

A Carmen Gonzalez operated more than one machine in our plant.

Q Is it the company's usual practice that they only recall employees who will stay in touch with them?

A It has happened to be an unprecedented year, Mr. Weinrich,

For nine and a half months, it has never happened in Solboro's history, to be idle for nine and a half months.

All our employees, and the record will show, repeatedly, each and every one, perhaps some isolated case, have returned year in and year out.

I can go back perhaps seven or eight years, the same repeated names will occur, and those people are in constant touch, yes.

Q Does the company ever call somebody and tell them to return or do they wait until the person happens to call and then say, "we have work now, come back."?

A It has happened occasionally, but very seldom.

I am the one who instructs people, I am the one who speaks to them, and I am the one who is in touch with them.

And when I lay a person off, I will tell them, "keep in touch."

And they always do.

I will inform them, for several reasons.

One reason, I find I am too busy a person to go and sit at the phone and call five or six or seven or eight people.

I find it unfair to a person to have him sit by the phone and wait for my phone call, and it is much easier for that person to call in to me and I will inform them, "there will be work next week."

Or two weeks, three weeks from now, and prepare them and give them an advance notice that they should be prepared.

"Perhaps in a week's time we will have work for you."

And that way they have sufficient time and do not call in at the last split second, "I am ready and willing to come back to work."

Q So you don't take initiative, is that your testimony, you wait for them to take the initiative?

A I would say in most cases.

It has happened occasionally, I will call a person when they do not call me in a period of a week or two weeks or whatever, whenever that event took place.

I will then take the initiative to call them, yes.

It has happened, certainly.

Q What about a person like Josie Maltaghati who had not worked for you since June of 1974, did you call her?

I don't receive a phone call and the phone is completely dead, answering the ad.

I wonder why and I will check the newspaper to see if the phone number is misprinted, or there is some kind of misprint and people don't call in.

That is the only time I check the newspapers.

I don't even check it, I don't have time for that, I leave it up to the agency, let them run the ad.

Sometimes they overrun it.

Q You testified that you thought it was very unusal for Margaret Passannante to send you a certified letter with a return receipt requested?

A Yes.

Q Isn't it a fact that Grace Rugolo, Donnal Moravec and Mary White also sent you the same type of letters?

A Yes, it is a fact.

Q And in connection with their letters did you also feel that it was a set up, that Mr. Sciacca and the union had put them up to it?

A First, let me go to Grace Rugolo, it was the first letter.

My reaction, even sending it through the mail, I couldn't even possibly imagine what this woman would want to send me this for, what this woman would want.

And when I read it, the audacity, threw me into shock, and I couldn't believe, and I responded to that, yes, since her memory was so short I felt I should respond to her and answer her.

I had no --

JUDGE HERMAN: That is enough, wait for the next question.

THE WITNESS: Okay.

Q (By Mr. Weinrich) So you didn't think it was a set up concerning Grace Rugolo?

A No.

Q What about Donna Moravec?

A I thought it was very much the same thing as Margaret Passannante.

After refusing a job, after going through a position which she wants to better herself and I happened to know Donna Moravec's background, happened to know her mental outlook, her attitude, when she writes a letter, "I, Donna Moravec, wish to, am ready, willing and able to return to work."

It is not Donna Moravec's language.

That is dictated and set up by no one but the union.

Q Would the same be true as to Mary White?

A Yes.

Q But the fact that you thought it was a set up by the union had nothing to do with your decision not to let them come back to work, did it?

A Not to what?

Q The fact that you thought it was a set up by the union had nothing to do with your decision not to let them come back to work?

A The fact that --

Q That you thought, that you testfied that in your opinion they were writing letters to you with that language and by registered mail was a set up, instigated by the union, that had nothing to do with your refusal to let them return to work, did it?

A No, because I have no work to begin with for them.

Secondly, I have never seen any person who seeks employment to signed, write a letter that way and demand a job.

Anyone who is interested in a job calls up, answers an ad or calls up in person, whichever mean they have to seek employment.

This is unheard of, I have never heard of anything like it.

I was taken by this whole thing, for a person to send a registered letter, return receipt requested, "I demand a job."

On what basis, on what, on what rights, what are her obligations, what are mine?

How long did they work for me, any of them?

They were all on trial basis, there was not one, one single one of these people you would say they were fully experienced.

They didn't even have a trial period, not even to be completed.

Twelve working days, would you call that a trial period?

JUDGE HERMAN: Don't ask him any questions, just answer the questions.

Q (By Mr. Weinrich) How long is your normal trial period?

A I don't have any specifics, I judge each individual case on that person's capabilities.

I would say it would take, normally, between 60 and 90 days that I would say this is a qualified operator.

Q Well, it was Margaret Passannante that worked for 12 days?

A Margaret Passannante was a qualified operator from another field in that machine, yes.

She was not an amateur, she sat at that machine as a pro from the first day on.

MR. WEINRICH: I have nothing further, Your Honor.

JUDGE HERMAN: Mr. Litton?

MR. LITTON: I have a few questions.

CROSS EXAMINATION

Q (By Mr. Litton) Mrs. Harkavy, you discussed the advertisements that you had in Newsday, and I believe you testified that you used the word, "Singer" or "single neddle", not because you needed Singer operators or single neddle operator, but because that would bring you a large response, because of those words?

A It is identification, identifying the type of industry, yes.

Q Did you ever use a more general phrase, such as, "wanted, sewing machine operators."?

A In the past. possibly, I don't know.

Q Do you think you might get a larger response?

A I tried phrasing it many different ways.

As a matter of fact, I left it to the newspaper people how to phrase it.

Q Do you think that you might get a great response if you advertised that you wanted sewing machine operators?

A Sometimes, yes.

I usually rely on experts, and they are the experts who are doing it.

Q The experts in the newspaper would know more about it than you would?

A If I don't get a response, as a matter of fact, they would call me after the advertisement, "did you get a response?"

"No."

"Then should we rephrase it"?

Q How many years have you been hiring?

A Pardon me?

Q How many years have you been hiring sewing machine operators?

A For the past ten years.

Q And it is your testimony that professional newspaper people know more about hiring sewing operators --

MR. SCHER: Objection.

A That is their business.

JUDGE HERMAN: Overruled.

A (Continuing) How to attract the most out of an ad, that is their business, of filling an ad in order for me to be satisfied, that I have results.

Q You testified that Grace Rugolo was a competent operator, I believe?

A Pardon?

Q Did you testify earlier here today that Grace Rugolo was competent operator?

A I did not testify to that.

I said Grace Rugolo was in training, I was training her on the Merrow Machine.

She never touched a Merrow Machine prior to coming to my place, that was my testimony.

JUDGE HERMAN: You said she was satisfactory?

THE WITNESS: Yes.

MR. LITTON: No further questions, Your Honor.

REDIRECT EXAMINATION

Q (By Mr. Scher) Mrs. Harkavy, at both the first and the second hearing you testified about Mary White's job performance as being not satisfactory.

You called her incompetent.

A Correct.

Q Now, aside from all of the other testimony that you have given about Mary White, and the fact that you moved her from one machine to another machine, and that you tried her on every machine in the place, literally, and that she ruined work, etc., is there any other information that you can provide us with that has caused you to not want to recall her to work?

A Is there any?

Yes.

Q What is it?

A I felt that after -- I believe that after the second week of Mary White being employed in my place and I showed my dissatisfaction, and I placed her from machine to machine, there came a time when there was a cancellation, when the cancellation was imminent, there was the final finishing on that order, on that Mauser Machine, that was the last day of her employment, so I released her.

I put it in simple terminology, I cannot put salt on a wound, I just very simply said, perhaps I said, "keep in touch."

And that is what I did.

Q You are talking about her competence on the machines?

A Yes.

Q I don't mean that.

Was there any other problem that she had?

A Yes.

Q That affected her ability to perform, which you were aware of, which you have taken into consideration in not recalling her?

A Yes.

After two weeks I had decided to release her, I approached her and she pleaded with me that I should keep her on because she needs the job desparately, and she gave me a reason.

Q But you are not answering my question, what was the problem?

A Her problem, she claimed that was -- well, I don't feel --

Q I am asking the questions, Mrs. Harkavy.

A Well, I feel it was very confidential.

JUDGE HERMAN: Answer the question, Mrs. Harkavy.

THE WITNESS: Well, I just feel it was very confidential and I don't feel I should really put it on that line.

JUDGE HERMAN: Was this a reason why you didn't recall her?

THE WITNESS: I kept her longer than releasing her before.

I felt that she was incompetent the very first day of coming into my shop.

Q (By Mr. Scher) You're not answering my question.

A I understand your question but I am really --

JUDGE HERMAN: Mrs. Harkavy, Mr. Scher's question was, was there any other reason other than her competenc that made you not to recall her?

THE WITNESS: No, there is not.

There was no other reason.

I am sorry, you are confusing two issues here and --

Q (By Mr. Scher) Mrs. Harkavy, let me make something clear.

This is a record in this case that does not go to the newspapers, whatever the reason you may have for wanting not to talk about something that you feel is sensitive, I have jumped that gap, all right?

A All right, then I understand your question.

Q What additional reason did you have for not wanting to recall Mary White?

JUDGE HERMAN: She just testified she didn't have another reason.

Now, you are saying you do have?

THE WITNESS: I do not have any work.

Mary White, I have tried her on Merrow work, I have tried her on button work, I tried her on label work.

JUDGE HERMAN: You said she couldn't do the work you wanted her to do?

THE WITNESS: Correct.

JUDGE HERMAN: And that is the only reason that you didn't rehire her?

THE WITNESS: That would be correct.

Q (By Mr. Scher) Mrs. Harkavy, did Mary White have a drinking problem?

A Well, this is what you asked me, that is what she confessed to me.

MR. WEINRICH: What type of problem?

Q (By Mr. Scher) The answer is yes?

A Yes.

JUDGE HERMAN: He said drinking.

Q (By Mr. Scher) A drinking problem, the answer is yes?

A Yes.

Q And was that a fact that you took into consideratio in recalling her?

A Well, that was one of the factors, okay.

JUDGE HERMAN: I thought you said the only factor was incompetence, couldn't handle the machines?

THE WITNESS: She could not handle the machines -- certainly I did not want to release this information and I felt it was very confidential and counsel brought it out, so this was the fact.

I am a very, very -- I keep strict confidences.

JUDGE HERMAN: Go ahead, Mr. Scher.

MR. SCHER: I have no further questions.

JUDGE HERMAN: Did you, on October 8th, when you laid Mrs. Rugolo off, did you tell her to keep in touch?

THE WITNESS: She ran out, like in a huff, and I do not recall saying one word to her, no.

I was abused and insulted and I don't think I did, no.

JUDGE HERMAN: Do you have anything else?

MR. WEINRICH: I just have one more question.

RECROSS EXAMINATION

Q (By Mr. Weinrich) You testified concerning Mary White, that one of the reasons you let her go was a drinking problem?

MR. SCHER: No, objection.

MR. WEINRICH: I move to strike her testimony then, Your Honor.

JUDGE HERMAN: I don't understand that objection.

MR. SCHER: He said she testified that one of the reasons she let her go, that was not the testimony.

JUDGE HERMAN: One of the reasons she didn't recall her?

MR. SCHER: Right.

JUDGE HERMAN: The objection is withdrawn, or at least the question as restated is not objected to.

Now, will you answer it?

Q (By Mr. Weinrich) The fact that you testified that she had a drinking problem is one of the reasons you did not recall her?

A That was part of it, yes.

Q What were the other reasons?

A Incompetence.

Q There were only two reasons?

A Those were the two major reasons, plus not being in touch for nine and a half months at all.

I didn't know if Mary White was even existing.

Q There were three reasons?

A Yes.

And if you bring more attention to me, I will find more, but at this point, right now, I can find those three major reasons that I didn't call her back, yes.

First, incompetence, second, which I didn't want to bring up, it was between her and I, confidential, and this not being in touch for nine and a half months.

I find it to be unbelievable for a person who is seeking a job in this day and age, when jobs are hard to get, not to be in touch with an employer and finding out whether there is a job available.

Q When did you find out about this drinking problem?

A I believe it was the second week that I employer her, when I was going to release her, at that time, when she was totally incompetent on everything that I tried her, so she pleaded with me.

Q So it was the fact that she had a drinking problem that persuaded you to keep her on, is that correct?

A Mr. Weinrich, may I answer you?

She told me that she is on a program, rehabilitatic program, and it would be that this is her therapy, this is the only way, I should give her a chance.

I had decided to give her a chance, I had a compassion for her.

She is a very nice woman as a person.

MR. WEINRICH: I have no further questions.

JUDGE HERMAN: Mr. Scher?

MR. SCHER: No further questions.

JUDGE HERMAN: You are excused.

THE WITNESS: Thank you.

JUDGE HERMAN: Do you have any other witnesses, Mr. Scher?

MR. SCHER: No.

JUDGE HERMAN: Then the Respondent rests?

MR. SCHER: The Respondent rests.

JUDGE HERMAN: Do you have any rebuttal?

MR. WEINRICH: I think I do.

Could I have five minutes?

JUDGE HERMAN: We will be in recess for five minutes.

(Whereupon, at 4:08 P.M. a recess was declared and the hearing was resumed at 4:15 P.M.)

JUDGE HERMAN: On the record.

MR. WEINRICH: Your Honor, General Counsel calls Mary White.

Whereupon,

MARY WHITE

having been called as a witness, and having been first duly sworn by the Judge, was examined and testified as follows:

JUDGE HERMAN: Be seated, and state your name and address.

THE WITNESS: Mary White, 655 Mill Country Road, Coram, New York.

DIRECT EXAMINATION

Q (By Mr. Weinrich) Mrs. White, do you currently take medication for any physical ailment?

A Yes, I do.

Q What is that?

A Low sugar.

Q Because of that ailment have you been told or are there certain things that you do not eat or drink?

A Sugar and carbohydrates and starches and sugar.

Q Are there any liquids that you do not drink?

A Any form of liquor, wine or anything like that.

Q For how long have you had this ailment?

A Over three years.

Q Did there ever come a time when you discussed any sort personal problem with Mrs. Harkavy?

A No.

Q Did you ever say anything to Mrs. Harkavy in confidence?

A Never.

Q Have you ever had a drinking problem?

A Never, except when I was 16 years old at a party I got drunk and I have never been drunk since.

Q Have you ever told Mrs. Harkavy that you had a drinking problem?

A I never told her.

Why would I, I don't have such a problem.

JUDGE HERMAN: Just answer the question.

Q What was the first machine you operated?

A A Mauser Machine.

Q Did you ever ask to operate any other machine?

A Yes, I did.

Q Which machine did you ask to operate?

A I think I was there a few weeks and I asked her if I could try the Merrow Machine.

Q Were you permitted to try the Merrow Machine?

A I think it was a couple of days after that, one day or two, I don't recall, and she had me close some shoulders on the sweaters, and it is a different field from the Merrow Machine that I did before, and it was a little faster, and I would say I was slow on it.

Q How long did you work on the Merrow Machine?

A That day, maybe an hour or two.

Q Had you ever worked on a Merrow Machine at Solboro before that day?

A No.

Q Did you ever work after that day?

A I think once after.

Q Was that at your request or at Mrs. Harkavy's request?

A She asked me if I would like to try it again.

She needed shoulders closed for a little while, I closed up a few shoulders, you know, a couple of dozen or so, so that she could do the next operation.

Q Who normally performed that function at that time?

A Mrs. Harkavy.

Q Was any criticism made of your work at that time by Mrs. Harkavy?

A No.

Q Besides the Mauser, what other machines did you work on, and besides the Merrow?

A Well, it is a button machine that I didn't put buttons on, I put cuffs on, on the sweaters.

Q Prior to the time of your lay off were you ever told that if your work didn't improve you would be terminated?

A No.

Each day she would examine my work, she would flip it over as passed by and she would say, "good" or "very good" or something to that effect and walk by

Q Were you ever informed that you had ruined work, that the work had to be redone?

A No.

I would say that the machine, you would have to keep your eye on it, if you moved your eye away it would slip off and I would say that maybe once or twice, you know, it would slip off.

But before I came there was a pile of work that was lying in front of me, that had to be redone, that laid there for weeks, that someone else had done, and I understand that there were several operators crying to me that she had tried out, and that was their work, from the other girls, but that I really don't know about, it was just her say.

Q What were you told at the time you were let go?

A That there wasn't any work for me and --

Q And what?

A And she told me to keep in touch with her, I called her in a day or two, at that time.

MR. WEINRICH: I have no further questions, Your Honor.

JUDGE HERMAN: Do you have anything?

MR. LITTON: No questions.

JUDGE HERMAN: Mr. Scher?

MR. SCHER: No questions.